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PAN-AMERICAN COÖPERATION IN PAN-AMERICAN AFFAIRS[1]

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A complete and thorough study of the question should embrace the following points:

A. The Pan-American idea: its inception, and its development up to the present time.

B. The need of an international Pan-American understanding that shall create the desire for Pan-American conciliation.

C. The promotion of Pan-American conciliation leading to the promulgation of an international Pan-American policy of coöperation in all affairs of the Americas.

Under "A" we have to consider: The movement for political emancipation in the Americas; the early and subsequent attempts to establish unions, leagues and federations among the republics; the attitude of the political leaders in America toward closer relations; the conditions obtaining in the several sections of America, and their influence for or against the realization of the ideals upon which the commonwealths were established; the congresses, conferences, and meetings of every nature, held in the Americas to promote Pan-American policies; the evolution of the Pan-American idea since Bolivar and Henry Clay, through Blaine up to the present day.

[1] An address before the American Political Science Association, at Cincinnati, Ohio, December 28, 1916.

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Under "B": The controversies, differences, and questions that have arisen between the republics; the wars that have been waged by them; the growth and development of the different nations; their racial and other differences; commercial and political interests; rivalries and jealousies due to the process of evolution and the shaping of spheres of influence; alterations in the map of the Americas and present status of boundary disputes; interference and intervention in the domestic affairs of backward states; dangers of the latter through continued misgovernment; need of getting closer together in view of new world conditions.

Under "C" we have the following to consider: The convocation to an international Pan-American congress to discuss openly a common sense plan of international conciliation; such a plan to put an end to all present day controversies of whatever nature; and the congress to establish a guarantee for future peace by binding itself to safeguard the integrity of the American republics against any aggression either from outside America or from any American nation, and finally, to promulgate the policy of coöperation in all matters affecting the Pan-American union of sovereign republics.

As it is not possible to present a study of this nature in the short time allowed to each speaker, I beg leave to make, on this occasion, an abbreviated exposition of the question under discussion, and perhaps, at some other time, the more comprehensive view of the subject, as outlined, may be presented.

The Pan-American idea owes its inception to Bolivar, the man of foresight and of genius, whose triumphant sword had liberated the larger portion of the South American continent from the dominion of Spain.

It was he who first had the idea of establishing in America something akin to a union among the newly organized republics, when he invited, in December of 1824, the governments of the Colombian Confederation, Mexico, Central America, the United Provinces of the River Platte, Chile and Peru to meet in congress at Panama, to discuss among other subjects, a "treaty of union, a league and confederation of American states that should last for all time."

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The government of the United States of North America was also invited to attend the congress. This was perhaps due to the personality of Henry Clay, at that time secretary of state, and in recognition of his services to the cause of South American independence.

Bolivar's intention, however, was first to constitute a union or league among the Latin or Spanish nations, and after this had been properly organized to invite the great republic of the north, as it was then called, even at that time, to become a party to the principles as set forth in the treaty of confederation.

It needed all of Clay's ability to convince the congress of the United States of the necessity of appointing representatives to attend the congress of the Latin states, and only after much procrastination and some unnecessary remarks with reference to the South American states, the North American envoys were appointed.

The meeting was not a decided success, because of the fact that the South and Central American nations were not as yet properly organized, and because differences of a personal character arose among the plenipotentiaries to the congress, but that this should have been the result does not detract from its international importance. And, in view of the fact that, since then, with variations more or less, the same ideals have been proclaimed by the nations of America whenever they have wished to make a concerted movement toward closer political relations, it would seem proved that the basic principle underlying the idea had much to commend it to the attention of statesmen and politicians, and that undoubtedly it contained the germ of the Pan-American policies that since then have developed throughout the continent.

This first congress of the Americas remains as a landmark of history, as the point of departure of the Pan-American movement, while the principles it recommended for the union, peace, and welfare of the nations and the high ideals that it proclaimed are in themselves the most lasting monument to the genius of Bolivar.

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The predominant idea prevailing among the leaders of thought and of action in the different colonies during their struggle for political emancipation, was a desire to establish a close bond of union between the sections in revolt against the tyranny of the colonial government so as to give a concerted action to the general movement.

This in a great measure was made possible in the North American colonies which revolted against England in the last third of the eighteenth century, because of the advanced conditions in many of these, and on account of their geographic position, the topography of their territory, its not too large extension, the existence of natural and not too difficult means of communication between the centers of population, and the state of material growth and development that such centers had already attained, which had a beneficial influence over large surrounding territories. Therefore, the early federation of the thirteen original states was undertaken without any very considerable difficulty, and a solid foundation laid for the building up of a great and strong nation.

In Spanish America conditions were very different. In contrast with the English colonies, the colonies of Spain in America occupied a very vast and extensive area; they were very thinly populated; their inhabitants belonged to mixed races and to races having strong dislikes for each other, the aboriginal Indian and the proud Castilian, with the white race in a decided minority. The individual states were separated from each other by natural barriers that made intercourse between them for practical purposes next to impossible. The centers of population and of power were very far apart. Centralized power, to a degree unknown in the Anglo-Saxon colonies, created intense local interests, and encouraged isolation. Add to this the geographic position of Spanish America, the extreme differences of climatic conditions between sections of the same state, the extraordinary topography of the greater part of the countries, the general backwardness of the masses and their poverty, the arrogance of the classes, the system of government, and lastly the leisurely aristocracy living side by side with a most abject

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proletariat, without the saving clause of any middle class to temper the one and uplift the other.

If conditions in South America had been different in those early days of our history, if they had been anything like unto what they were in this country in 1776, there might have been a probability of establishing then and there a federation of republics that might have survived the vicissitudes of the revolutionary period and possibly endured until this day.

At different periods in the history of Latin America, the federation idea of Bolivar has been revived, and several of such federations actually have been in existence, or been in the course of creation, when unforseeen events have made them evanesce or suddenly collapse. The more notable instances of such federations have been:—the great Colombian Confederation of Venezuela, Colombia and Ecuador, only of short duration; the Peru-Bolivian Confederation, of still shorter life and of disastrous ending; the federated States of the River Platte, that dragged out a life of vicissitudes; and the Central American Federation, disrupted in wars, and a dream yet to be fulfilled. Besides these, there have been innumerable attempts at unions, leagues, and alliances involving all and every republic of the continent. In most of the cases these have given pretexts for wars, sometimes during the process of their formation, at other times after they had been made public, while at still other times wars have been waged to disrupt the federation, break up the alliance, or because there appeared to be an attempt to do any one of these things by some other outside power.

According as these federations became dissolved, the nations that had been a party thereto drifted completely apart, and soon became absorbed in other interests.

The special interests in each locality, the national egotism of the centralized governments, the antagonism of castes in democracies that were only so in name, and the eager desire for power among individuals with very little preparation for its exercise and responsibilities contributed in a marked manner to destroy the ideals upon which the nationalities had been founded, and to replace these with a loose moral code, and thus

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eventually to drift into military despotisms, hot-beds for revolution, and centers of political unrest.

In the midst of these continual upheavals, of this life of turmoil and of constant excitement, national aspirations began to take form and to become noticeable. In many instances these aspirations grew out of an unwholesome desire to take undue advantage of some unfortunate existing circumstance in a neighboring state, with the result that interference with the domestic and internal affairs of a weaker or less stable republic was introduced into the international life of the more aggressive or more highly developed nations. This attitude at times gave rise to very serious questions which sometimes became international in character and took on ugly aspects. Encroachments on boundaries; moral and material assistance to political conspirators or refugees, in the hope of bringing on civil war which if successful would bring some decided advantage or some benefit at the expense of another nation, besides the weakening of a rival—were of periodical occurrence. Again there were claims against the governments of other nations for real, and more often, for imaginary damages; demands for reparation for insults that more often were faults of ignorance committed by some irresponsible petty authority, and which might have been adjusted amicably, if there had existed a corresponding equivalence of strength between the parties to the quarrel. In this manner and by these methods, have been planted the seeds of jealousy, distrust, and envy, among nations that were born into political existence out of a common effort.

A third of a century after the wars for independence, the young nations had completely drifted apart, leaving behind the lofty ideals that gave birth to their aspirations of coöperation and solidarity. And as the years rolled on and the work of evolution and development progressed, some outdistanced the others in the race for material and economic prosperity, and, in some instances they became, perhaps, too arrogant, and more aggressive in their dealings with their less favored sister-nations.

At times, the republics, or some of them, would get together with the object of establishing the basis for an understanding

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that should bring them back to the path of solidarity. There would be diplomatic meetings, conferences, and even congresses; and protocols and treaties would be drafted, discussed, and finally signed by properly accredited plenipotentiaries; and after the usual interchange of speeches, and the exchange of official courtesies, the documents would be submitted to the respective legislatures for ratification. Sometimes it would happen that the documents over whose preparation so much care had been taken were pigeon-holed in the department of foreign affairs, and on other occasions, in committee-rooms of the senate, never again to see the light of day. The diplomatic history of the American republics is replete with occurrences of this kind. And still in every instance, where a diplomatic document has had to be drawn up, it is safe to say that at least one of the parties to it acted in *bona fides*, while in most of the cases the intent to live up to the terms of the agreement, convention, or treaty was absolutely genuine on the part of the high contracting parties. Sometimes it happened that these compacts were the outcome of political events growing out of situations brought about by purely domestic affairs, just passing issues without consequence, of a nature that any change in the political régime of either of the contracting parties might be sufficient to make the whole thing fall through, or to invalidate the instrument. Not infrequently when this has occurred, it brought about an estrangement between nations which only a short time previously had negotiated a treaty or some kind of an agreement, which was supposed to put an end to all their differences and create between them a bond of everlasting amity.

This state of perpetual rivalry, and the manifest desire on the part of some republics to exercise control or influence over some of their weaker sister-republics have given rise throughout America to a condition of distrust, as between nation and nation. It is due to the sentiment of suspicion, thus engendered, that the relations between many of the countries of America are not what they should be.

Geographically, the nations of America may be divided into three groups: northern, central, southern. The condition to

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which I have just referred, has existed and still exists in each one of these. To the northern group belong: the United States, Mexico, Cuba, Haiti and the Dominican Republic. To the central belong: Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, and Panama. To the southern: Colombia, Venezuela, Brazil, Paraguay, Uruguay, Argentina, Chile, Bolivia, Peru, and Ecuador.

In each one of these there are one or more nations that through their material power, economic development, or advantageous geographic position have attained a certain amount of political prestige, which makes them the dominating factors in their respective group.

The special condition in which certain nations of America stand today with respect to their own and to the other groups is the outcome of aggressive policies, or else the result of force of circumstances, or of both; because in the process of rapid growth and development, as new interests appeared, they opened the way for new policies which, being applied, did not always harmonize with the interests of other nations.

But, no matter how attained, the result remains that the ascendency of some of the nations of America over the others has engendered in many of them a sentiment of bitterness and created a certain amount of distrust of such nations as have given signs of too much aggressiveness towards their neighbors in the framing of their policies and in the development of their power.

It was in the desire to blot out all these jealousies, and with a view of letting by-gones be by-gones, that James G. Blaine attempted to bring into life a new sentiment which would unite the Americas in a common effort and sow the seed that should bring forth a bloom of harmony. Blaine's Pan-American gathering was a noble idea. It was born of an honest desire to establish a strong bond among all the American nations. He sought through closer commercial relations to obtain greater mutual intercourse, and to produce a better international understanding. He looked for one common ground upon which to build up a new America. As a citizen of the United States, and being imbued with the idea of his country's greatness, he naturally

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looked upon the United States as the one power that should make the first move toward the establishment of closer relations, and it was quite reasonable to expect that the action of the United States should take the nature of recommending a commercial *rapprochement* as a stepping stone to a political *entente* in the future.

There is no doubt that the intention was for the best; and also that the Pan-American conference held at Washington in 1890, was a great international achievement. But it is likewise true that while the conference did give birth to a new sentiment among the American nations, it emphasized in many of the debates the divisions that existed in the American family and it showed to what an extent were still lurking sentiments of resentment, of distrust, of jealousy, among the nations.

Today we are more than a quarter of a century removed from Blaine's Pan-American conference, and similar conferences have been held at Mexico in 1901–02; at Rio de Janeiro, in 1906; at Buenos Aires, in 1910; while the fifth of the series that was scheduled to be held at Santiago, Chile, in September of 1915, has been postponed indefinitely by reason of the world war, now raging. At each and every one of these Pan-American gatherings the web that will eventually knit together the American nations has been more closely woven. And although we are apparently very far from where the idealists would wish to see us, still the getting-together movement is well on, and, fortunately so, as most certainly we are nearing a point where a common necessity may make us realize the need of establishing in shorter time than we may have anticipated the desideratum: effective Pan-American coöperation.

To effect this, and to bring about a condition that should be permanent, we of the Americas must be untiring in our efforts—our honest efforts—toward a Pan-American international understanding. Such an understanding to be of any real value, and to serve its purpose, must be of a nature that shall hold good alike for all nations. There must not be any discrimination whatever. It must be honest and true from nation to nation; free from restrictions, reservations, loop-holes, or

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exceptions of any kind. It must embrace all nations; the strong and the weak, the advanced and the backward, the rich and the poor, and every one of our nations must be willing to enter freely into the spirit of the thing, without which there can not be an honest understanding.

To bring this about we must first realize that there are signs already indicating clearly that it can not be very much longer before questions of greater importance than any of our present day controversies will be confronting the American world as a whole—questions of such magnitude in their scope as to dwarf into insignificance all others, questions that of necessity will demand concerted action, if they are to be dealt with in a manner to safeguard the interests of all our peoples. Therefore, as a first step toward this Pan-American international understanding, we must establish the principle of Pan-American conciliation, which implies the eradication of all outstanding differences that may now exist between any of the American nations; the removal of all causes for future friction among them, by settlement of all present-day controversies; and the renouncing of all such policies and actions as are in any way harmful to third interests, and detrimental to a final settlement.

The Honorable Elihu Root, in his now historic official visit to South America, under President Roosevelt's administration, laid the cornerstone of the edifice of Pan-American conciliation when he outlined in his declaration before the sister-republics of America, the principle of the policy upon which it should rest. And it has been the desire of President Wilson to carry this policy of conciliation a step nearer to its goal, when he presented to the consideration of the governments of Latin America a project for the establishment of permanent peace among our nations, based upon a thorough understanding and embracing a plan for the prompt settlement of all outstanding controversies.

But notwithstanding these facts, and although, both here and in Latin America, men have come forward at times as strong advocates of closer relations and as the champions of the more advanced form of Pan-American solidarity—sentiments and ideas voiced at all Pan-American gatherings, and inscribed in the

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writings of men who have taken it upon themselves to create a better understanding between our respective peoples—conditions throughout the continent have shown us that we have not yet reached that stage in international relations where we can justly and truthfully declare that our American world is free from the controversies and differences that embitter nation against nation, and which carry within them the seed of distrust and the germ of war.

To read into the future we must look at the present, while remembering the lessons taught by the past.

On all sides and from every nation in America comes today the cry on behalf of Pan-American solidarity. And while all in the abstract desire its realization, still the individual nation withholds from the general plan of conciliation one or more specific questions that it considers of vital interest to its own welfare, security, or political prestige, or influence. Such an attitude is directly in opposition to the very essence of conciliation. For from the moment that a nation withholds one of the controversies to which it is a party from a general and universal plan having for its object international amity, it is leaving a weed in the field which will eventually harm, if not destroy, the other good seed planted.

If the nations of America can not reach an understanding it is because some of them do not care to give up or to surrender positions which they have acquired in the past; which they have nursed themselves to believe are essential to their future welfare, security, or political influence; and which in certain determined sections they consider as belonging to them by right. It really serves no purpose to discourse on abstract questions, it is useless to talk sentiment, and it is absolute hypocrisy to advocate at public gatherings and in the press, policies which are not intended for practical purposes, and which at best are looked upon as fit and good only for others.

The nations of America in the course of their development, and in the working out of their destinies, have sometimes had to resort to force and engage in wars. These wars have left scars and in some cases unhealed wounds, that still cause pain to the defeated nation.

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A few of these wars have been waged for territorial aggrandizement, no matter what the alleged pretext may have been at the time of entering upon them.

Notwithstanding the fact that there are two sides to every question, there is no doubt that the verdict of the world is more often apt to be correct than otherwise. So today, we pretty well know who started the fight, which side is in the right and which in the wrong, and we have very definite opinions on the why and wherefor of such wars. Therefore the side that does not wish to submit to an impartial tribunal its outstanding differences, when its treaty stipulations call for this; the side that does not abide by the award of an umpire; the side that refuses to allow certain points in a controversy to be affected by the treaty under which the precise controversy was considered; the side that invokes the nugatory clause that withholds from arbitration any question which it may consider as affecting the national honor; all belong to the category that are not in earnest about conciliation, coöperation, solidarity, international amity, and true Pan-Americanism.

But although there are still a few lukewarm Pan-Americanists, the trend is toward the establishment of a permanent policy of coöperation in Pan-American affairs. And it is certainly to be hoped that we may get there soon. To reach this goal, there would seem to be two methods. The one, to let by-gones be by-gones. To bow down to the *fait accompli*, and accept with as good grace as is possible, conditions as they are today. This implies a generous forgetfulness of the wrongs done, even unto the loss of territory; and then, to build up an understanding for the future free from all and every sentiment of regret for the past. The other, by the thrashing out of all outstanding—present-day—controversies, whatever their nature, and bring about their immediate settlement, in a spirit of thorough justice born of a true desire for conciliation.

In the first case it is the weaker nation that is called upon to give in; to make all the concessions; to forget the past in benefit of the present, and in expectation of the future; to accept the verdict of might as the last word; and finally to make the best possible terms to clear itself from an unfortunate situation.

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In the second, there is involved a principle of justice, based on a clear understanding of absolute equality; the right to discuss and to defend. It is not one bowing down in humble submission and accepting with the conviction of a fatalist the inevitable from which there can be no alternative, no final appeal.

History informs us of many instances where a nation having followed the first course, after a time became the friend and ally of its despoiler. Such occurrences only a short time before would have seemed impossible and been considered in the nature of aberrations and political monstrosities. This goes to prove that nations have varying interests; that these interests should be made subordinate to existing conditions, and be governed by the ever changing course of events.

The world war that is now raging throughout Europe has brought home to us many a lesson, and we in America have a great deal to learn from following the course of events over there. It is to these events and their immediate consequence, and to the effect that this war may have upon all established things, that we should now turn our minds in order to convince ourselves that if we, in the Americas, are to be spared from the same dangers and pitfalls into which have been lead the highly cultured, civilized, and sober nations of Europe, we should honestly and courageously enter into the spirit of the second method and at once decide upon a true policy of international American conciliation, which will have for its sole object Pan-American coöperation in all matters, and for all time.

To sum up the foregoing, we have seen that the republics of America in the early days of their political existence gave much thought and reflection to a desire of getting closer together, even to the idea of establishing federations and unions; that later they drifted apart, losing in the process some of their ideals; and that as the development of each state became more intense with the working out of its own problems, the ties of amity became loose, and in the shaping of policies born of individual interests, certain nations encroached on others, sometimes wilfully, at other times by the force of circumstances, and obtained advantages at the expense of their neighbors until today there remain many international wounds still unhealed. Bitterness, and resentment

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even now are rife, jealousies have not disappeared, and causes of friction are of every day occurrence.

Other events are already crowding upon our nations that should make them realize that the time has now come when it behooves all to "Stop; look; and listen;" to heed the writing on the wall, and to return with sober minds and contrition in our hearts to the ideals of the founders of our sovereignties, and seek, in a policy of coöperation, based on international conciliation, the evolution of the destinies of a United American world.

Therefore, in conclusion, I submit the following:

That Pan-American coöperation in Pan-American affairs is a policy that makes for international American solidarity, based on conciliation as the outcome of an honest endeavour to create a thorough understanding between the American nations.

That in order to establish such a policy and inscribe it as the law governing the relations between the nations of the Americas, it becomes necessary for all the nations of America forthwith to settle all and every one of their international disputes and differences—without any exceptions whatsoever—and no matter of what nature, according to existing treaties, either directly, through arbitration, or in equity, and immediately following this, solemnly to declare and bind themselves never to wage a war of aggression against an American nation, or to resort to any territorial acquisition through force of arms, or in any way, manner, or form to impair the sovereignty of any one of the independent republics of America as constituted at this time.

And that the appeal contained in this statement should be the subject of an intense propaganda throughout all American nations, with a view that at the next Pan-American International Congress, may be proclaimed the new American international policy of coöperation in Pan-American affairs, as the deliberate act of a conscious and conscientious America, animated by the desire of establishing a life-long bond of amity among the independent sovereign democracies, that together constitute The Pan-American Union of Republics.

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THE MONROE DOCTRINE AND THE GOVERNMENT OF CHILE[1]

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The Monroe Doctrine has been the subject of much discussion by American and European publicists, and their estimates have been widely different, ranging from those who consider it the principle which has maintained the territorial integrity of this continent for nearly a century to those who deny to it any real influence in the preservation of the nations which emerged into independent life during the first quarter of the nineteenth century. Both concepts are, in my judgment, exaggerated. To accept the first judgment would be to ignore and to forget the failure of the United States to assert the doctrine on three different occasions when it was flagrantly violated: the occupation of the Falkland Islands by Great Britain in 1843, islands which were regarded by the Argentine Republic as national property; the military intervention of France in the Republics of the River Platte in 1838, an intervention repeated in conjunction with Great Britain in 1845; and the occupation of the Chincha Islands by Spain in 1865. The attitude of the government of the United States is readily explained when one recalls the fact that the Monroe Doctrine had not become a real factor in world politics until the naval and military strength of the United States had given to that country the position of a great power. Before that time the doctrine was nothing more than a happy formulation of an aspiration deeply felt by the American nations which had on several occasions prior to the celebrated message of 1823 proclaimed the same idea. In his excellent work entitled *American International Law*, my distinguished fellow-countryman and

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publicist, Dr. Alejandro Alvarez, has presented a brilliant study of this attitude of the American nations.

Special mention should be made, however, of a document entitled "Declaration of the Rights of the Chilean People," formulated in 1810, which contains the following proposition: "The people of Latin-America cannot in isolation defend their sovereignty. It is necessary, for their development, to unite against possible European aggression, thus assuring their international security." This principle showed a clear vision of the necessities of the future, and later on influenced O'Higgins and San Martin to organize in 1821 the first Chilean squadron, which freed Peru from Spanish dominion. This was a titanic enterprise to undertake and carry to a successful conclusion, particularly when one bears in mind the limited resources at the disposal of the newly born republic of Chile, especially after her ten years of struggle for independence.

Record may also be made of the resolution adopted by the National Parliament of Chile in 1864. After refusing to recognize the imperial government then established in Mexico by Napoleon III, the resolution continues:

"The Republic of Chile regards the acts of European intervention in America as out of harmony with American international law. It furthermore regards as contrary to the American international system the governments which are established by reason of such intervention, even if such intervention is solicited. In a similar position are placed all agreements with reference to protectorates, cession or sale of property, or any other plan of whatever nature which limits the sovereignty or independence of an American state in favor of a European power, or which has for its purpose to establish a form of government contrary to the representative republican type adopted in Spanish America."

This principle has always been the guiding principle of Chile's foreign policy.

To accept the view that the Monroe Doctrine has been without real influence in the international policy of the American continents is to ignore its indisputable moral influence in discouraging European nations from embarking upon certain policies in their

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relations with the countries of this hemisphere. This influence has been real and definite. To deny it is equivalent to ignoring the noble and determined attitude of the United States in 1895, in the Anglo-Venezuelan boundary dispute, and in 1902, when the United States prevented the coercion of Venezuela by Great Britain, Germany and Italy.

I believe that the most explicit recognition of the international character of the Monroe Doctrine was given by Chancellor Bismarck when he designated it as an "international impertinence"; but if it was indeed an impertinence, it was a formidable one,—sufficient to prevent Germany, in the Venezuelan incident of 1902, from carrying out the plan which she had in view.

"The Monroe Doctrine," said Lord Salisbury in the house of lords, "is not an integral part of international law, nor a fundamental principle that can be applied in the adjustment of our present difference with Venezuela." In spite of this declaration, however, the British government found a means of solving the difference in harmony with the thesis consistent with the government of the United States. Both of these facts constitute an eloquent demonstration, as was said by President Roosevelt in a memorable address, that doctrines of such vital importance are not worth the paper on which they are written unless they are sustained by a force sufficient to compel their acceptance.

It is not my desire to formulate a detailed critical judgment with reference to this controversy, nor to express an opinion on the lack of consistency often imputed to the foreign policy of the United States with reference to its unfairness in European-Asiatic affairs. This lack of consistency was pointed out by Count Okuma, ex-prime minister of Japan, in his famous editorial in the *Shin Nihon*, of Tokyo, entitled "American Policy and Diplomacy." It has been necessary, however, for me to recall to you the position of the Monroe Doctrine in world policy as an indispensable antecedent to discussing in general outline the part which Chile has played in maintaining the principle, because the Chilean nation is the only one which has sacrificed the blood of its people in the maintenance of the principle. It was in noble defense of the doctrine that the Chilean govern-

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ment declared war against Spain in 1866, when the territorial integrity of Peru was menaced. This attitude of generous continental solidarity is often lost sight of. Not long ago, when we had the honor to entertain as our distinguished guest Colonel Roosevelt, he stated in the course of a masterful exposition of the Monroe Doctrine that during an entire century the United States had been compelled to bear the burden alone. He furthermore emphasized the fact that soon after the middle of the century the United States was engaged in its great civil war, and was, therefore, not in a position to defend the doctrine against the European nations which were then invading the soil of a sister republic; and that no other American nation arose to champion the principle. This statement, though coming from one of the greatest modern statesmen, involves an historical error, and affects one of the most brilliant pages of the international life of Chile. It is to the correction of this error that I desire to call your attention.

Early in 1864 the Spanish government sent to Peru an official with the title "Special and Extraordinary Commissioner of the Kingdom," a designation which was used in the colonial period for those officials who were entrusted with the surveillance of the king's dominions. This designation indicated that Spain, in spite of the forty years which had passed since Peru had acquired her independence, still refused to recognize the same, and entertained the hope of reasserting her dominion over her favorite vice-royalty. The government of Peru refused to give to the royal commissioner any status other than that of "Confidential Agent." Offended by this treatment, he withdrew from the country. Various incidents then occurred; and finally the Spanish squadron appeared and took possession of the Chincha Islands, which belonged to Peru. The theory upon which this action took place was that the Spanish effort to subdue Peru had never been abandoned but had simply been suspended during a period of truce.

This unjust aggression produced in Chile a strong current of opinion in favor of the principle of continental integrity thus menaced. The government of Chile immediately proceeded to

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give effect to this principle by entering into an offensive and defensive alliance with Peru. Chile was not prepared for a war. Her navy was composed of a single wooden war vessel, the *Esmeralda* (which afterwards met with a glorious end in the naval combat of Iquique), a vessel of 18 cannon, and two merchant vessels. The Spanish squadron at that time in Pacific waters consisted of five frigates, two gunboats and a transport, with a total of 207 cannon. As will be seen, the disproportion of fighting forces was enormous.

When the Spanish government heard of the hostile attitude of Chile, she decreed a blockade of our coast, and ordered Admiral Pareja to present an ultimatum at Valparaiso. The government of Chile answered by a declaration of war, and issued instructions to her small navy to unite with the naval force of Peru. The task was a difficult one, because the Spanish squadron was distributed all along Chile's extensive coast line of three thousand miles. This distribution facilitated, however, a constant breaking of the blockade and, what is more important, made it possible to capture the gunboat *Covadonga*, which was added to our fleet. Admiral Pareja took this incident so much to heart that he committed suicide.

The new Spanish admiral concentrated his squadron at Valparaiso, and in fulfilment of the orders of his government bombarded the port in spite of the fact that it was an unfortified place. This was contrary to the most elementary rules of international law, and was severely censured by the public opinion of all countries. The damage done was enormous, reaching not less than fourteen million dollars. The Spanish squadron immediately sailed northward and took the port of Callao, but here the forts of that place inflicted very considerable losses on the Spaniards. Spain then realized that further effort was useless, and abandoned all hope of reconquering her former colonies of the Pacific. After a truce was arranged in 1867, Spain signed a treaty of peace with the governments of Chile and Peru in Washington on April 11, 1871.

During the course of this war the United States showed considerable disquietude because of the Spanish expedition, and

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requested explanations from the government of Madrid, accepting as satisfactory the assurance given by the Spanish government that the war did not have as its purpose the desire to change the republican form of government of the countries of Chile and Peru. Twenty years later the United States would not have accepted so precarious a guarantee, but it is important to bear in mind that at this time the United States had just brought to a close her long and bloody civil war, and was not in a position to meet the sacrifices involved in a foreign war into which her opposition to the designs of Spain might lead her.

This is the history of the jealous defense made by the government of Chile of the great principle of continental inviolability. I will not attempt to estimate the extent of the sacrifice made in upholding this principle.

Fifty years have passed since this event, and during this period three nations, the Argentine, Brazil and Chile, have reached a degree of development which makes it possible for them to make the doctrine proclaimed by President Monroe an integral part of their foreign policy. President Roosevelt spoke in these terms in the address to which I have already made allusion:

"I speak to a gallant people, a proud and patriotic people, with a great military record, with a fine army and navy. I believe that the time has now come when the doctrine in reality has the guarantee not only of the United States, my own country, but of your country, Chile, and of every other American nation which has arisen to a sufficient point of economic well-being, of stable and orderly government, of power to do justice to others and to exact justice from others and, therefore, of potential armed strength, to enable it thus to act as a guarantor of the doctrine. I hail her advent to this position of assured international power and dignity."

The republic of Chile felt deeply honored by this public recognition of her action. The policy of my government has been constantly to maintain the closest harmony between the economic development of the country and the power necessary to safeguard such development. We have been ardent

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adherents of peace because we love justice, but we do not fear war, if some day war be necessary to defend our rights as a sovereign nation. We have placed in the hands of arbitral tribunals the most extensive territories that have ever been in dispute between two countries; and on the summit of the Andes is the image of Christ, erected as a fitting testimony of the eternal friendship of two nations, Chile and Argentina. We have always realized that the existence of every nation is closely related to the possession of means adequate to protect itself. Carrying this principle into practice, we have developed, with our four and a half million inhabitants, an army of about three hundred thousand men, each of whom receives one full year of military instruction. This force can be mobilized within fifteen days. Inasmuch as we are the country of the greatest industrial vitality of South America, we have demonstrated that the peaceable development of the country is in no way opposed to the small sacrifice demanded of her sons for the purpose of guaranteeing her safety.

In his message opening the Congress of Chile on June 1, 1915, the president referred to the treaty of Buenos Aires, signed on May 1 of the same year by the ministers of foreign affairs of Chile, the Argentine and Brazil, and declared that this treaty was a frank expression of the policy of close cooperation between the three countries, and that such close cooperation constituted the most important guarantee of the peace of the American republics and for the respect of their rights. He furthermore stated that the most vital of these rights was the integrity of the American continent. This document is the first official declaration by a government of the American continent of its adherence to the Monroe Doctrine in its most ample and generous concept of continental solidarity.

The close harmony in which the foreign policy of the United States and Chile have developed in maintaining the naval supremacy which we have exercised on the west coast of the Pacific during the century, is the most solemn confirmation of our set purpose to continue to maintain this great doctrine. In order to do this we do not require treaties or conventions. The

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fraternal tie of a common interest in national preservation is an adequate bond. As your great President George Washington said in his farewell address, in pointing out the broad outlines of the policy of this great republic, "Observe justice and faith toward all nations; but have entangling alliances with none."

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LENDING OUR FINANCIAL MACHINERY TO LATIN AMERICA[1]

F. C. SCHWEDTMAN

The National City Bank of New York

In the history of every country, the transitional period between two stages of economic development has been marked by new problems and intricate readjustments of the economic life and machinery. The United States is now passing through the transitional period from a nation whose interests have been largely centered within its own borders to one stepping out into the arena of world competition. For the past twenty years, practically every business change has been a change toward greater and greater production totals. The nation must muster its trained thinkers to reorganize the financial and industrial machinery, as well as to remold the thought of the people in order that the rapid growth of commerce and the necessary readjustments may be facilitated. The development of foreign markets makes imperative a vastly-expanded financial machinery, not alone to offer all possible trade and banking facilities to the international merchants, but to present stable channels through which investment capital may flow to borrowing countries.

UNITED STATES NEEDS A FOREIGN TRADE

Roused by the appeals for its products from the European nations since the titanic struggle began in the fall of 1914 this country has responded with all its tremendous productive forces in an effort to fill the needs of the consuming war markets. Not only has the United States geared up its industrial mechanism sufficiently to yield enormous quantities of war munitions (esti-

[1] An address before the American Political Science Association on December 28, 1916, at Cincinnati, Ohio.

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mated to be over $3,000,000,000 worth of this material alone in 1916), but it has been able in some measure to provide the supply of merchandise and capital heretofore furnished South America principally by England and Germany. The estimated value of our manufactures for 1915 is placed at $25,000,000,000, almost as much as those of England, Germany and France together. We were able to produce for export in 1914 $2,364,579,148 worth of goods; while for the fiscal year ending June 30, 1916, our exports were $4,333,658,865. With the loss of the extremely lucrative war market, we shall find ourselves with a manufacturing output out of all proportion to our normal domestic and stable foreign markets, unless we provide the financial auxiliaries to cultivate these foreign markets now while the time is auspicious.

Even before the war there were ample phenomena to warn this country that it must evolve the necessary machinery to secure and hold a foreign trade if it were to take its place among the great nations and grow in population, wealth, and influence. It was becoming apparent that our productive powers were outdistancing our home markets. Frequent periods of stagnation of business disclosed a weak link in our commercial chain. The rapid settlement of our western lands has been viewed with keen interest, and prophecies made as to the reaction when our marginal land should become less productive than the marginal land of the newer countries. Under the normal conditions preceding the war, the rising prices for lumber, meat, and foodstuffs in general, indicated that the time was not far in the future when we should want a new source of these supplies. Due to vast natural resources, and the evolution of highly-mechanized processes, making large-scale production possible, we have found ourselves an efficient producer, but lacking a cosmopolitan market for our manufactures. Without a foreign trade, we are in something of the position of a department store who sells its various wares only to its employees.

The statistics of our trade indicate most forcefully the trend our commerce has taken. In 1914, just before the war, when conditions were normal, of our exports 18 per cent were food-

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stuffs, whereas, in 1894, foodstuffs comprised 44 per cent of the total. Manufactured products just previous to the war equaled over 50 per cent of the total exports, as against 23 per cent in 1894. From 1890 to 1910, the number of persons employed in manufacturing and mechanical pursuits increased 90 per cent; in agricultural pursuits during the same time, 37 per cent. With the artificial stimulus given by the war, in the short space of two years we have undergone the change from a debtor to a creditor nation, a development that might have taken a generation under normal conditions.

Another portentous development, a direct outgrowth of the European conflict, and having a vital relation to the financial aid we may render our Latin American neighbors, has been the liquidation of a great quantity of our foreign-held securities. The world stood aghast at the speed with which in a space of a few decades we paid off a couple of billion dollars of civil war debts. In the two and a half years of the war, we have loaned perhaps $1,250,000,000, or an average loan, according to these figures, of over $3,000,000 a day throughout this period. Compared with these operations, the civil war debt liquidation was indeed a retail operation.

Had these loans and payments taken the form of gold shipments abroad, our economic equilibrium might have been threatened, but the statistics of our gold supply during this period demonstrate that the bulk of this process was effected through the establishment in our own country of bank credits against which war munition contracts have been drawn. The result of these new loans, then, as I see it, will be that instead of continuing to feed the glittering river of gold that has flowed for years through well paved financial channels to our creditors on the other side of the Atlantic, we shall now have dammed the river at the gates on our own coasts, and the great financial reservoirs will be filled to overflowing with the gold that formerly was paid our creditors for interest and dividends.

Why not a campaign for "investment at home?" With the forces militating for and against this process, you are quite familiar. Often ill-advised state and federal legislation in re-

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gard to public utility operations and investments has made the investing public afraid of these enterprises, though undoubtedly untold millions could properly and profitably be expended on our own transportation facilities, terminal and wharf improvements, development of hydraulic power, and the building up of an adequate merchant marine. To make investment in these enterprises popular to the extent it should be, will require a new national sentiment toward business interests—a sentiment that will encourage coöperation rather than retard the growth of legitimate and needed utilities.

If we plunge on with our gigantic productive machinery at full capacity, with surplus capital accumulating, but lacking a stable foreign market with carefully organized financial machinery for the conduct of this trade and the investment of our capital, we must expect to meet a day of reckoning with a disastrous blow dealt to our national prosperity. A chain is no stronger than its weakest link; our industrial chain composed of hundreds and thousands of factories and mills and mines will snap at the time of the crucial test—the loss of the European war market—unless steps are taken effectively and soon. With our high wages and high prices, we shall present an alluring market in which to sell, but an adverse one in which to buy. Under these conditions, what will become of our gold reserve upon which our present inflated credit structure is built? The tendency would be toward an equilibrium, but the contraction of credit is always accompanied by unhappy conditions, and the readjustment would not insure us protection against a further depletion of our gold reserve. Here again is need for a permanently maintained balance of export trade to forestall the depletion of our gold reserve.

WHY SOUTH AMERICA

The two most promising potential markets are Russia and South America. Both are areas of tremendous natural resources awaiting only the touch of capital and trade to cause them to leap forth into the circle of nations for which their natural advantages have fitted them. However, as to Russia, there are

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already rumors of economic alliances among the Entente nations for the distribution of markets after the war, and in any event, its mere proximity to European manufacturing centers may present a real handicap to us in our endeavor to develop strong trade ties with Russia. Latin America, on the other hand, is comprised of sister nations, some of them nations in the making. They possess many of the ideals of democracy in common with us, and face much the same conditions that we did a half century ago. Far-sighted coöperation in international finances now will help to weld the golden link of the inter-American trade chain to the mutual benefit of all of us. These Latin American countries need generous amounts of capital, and purchasers for what they have to sell. Seeing the potential greatness of this field, England and Germany early bent their efforts toward establishing themselves to supplying the needed capital for the new nations' development. The war, however, has caused the serious contraction of the credits and loans formerly advanced from Europe; and the United States, with a quickened appreciation of the benefits resulting from coöperation now, can step into the gap left by the lessening of the European supply of goods and capital, thus binding closer in mutually profitable relationships the nations of the two Americas.

Like all new countries, South America must look to outside capital for its development; and experience demonstrates that rewards accruing to such capital are greater in the newer fields. The opportunities in the building of railroads, steamship lines, warehouses, docks, sewers, light, power and gas plants are almost unlimited.

For example, the railroad mileage of Argentina increased from 6 miles in 1857 to 10,499 miles in 1901, and to 21,196 miles in 1913, practically doubling in twelve years. These 21,196 miles represent a total investment of about $1,135,220,000, of which foreign investors have contributed 88 to 90 per cent. The figures on Great Britain's investments in all South America can be scarcely more than estimates, but these estimates seem to approximate $5,000,000,000, in public loans, public service corporations, banks, and transportation systems. The income

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from this almost inconceivable mass of investments is about $250,000,000, yielding slightly over 5 per cent. As the total value of the South American exports to the United Kingdom in 1912 was $310,210,806, the earnings from British investments nearly paid for the total imports. The United States investor does not lack a precedent in entering the Latin American investment field. On the other hand a conservative estimate has it that to the end of July, 1916, American capital invested in South American government bonds, bank loans, mines, railways, rubber, light and power plants, and packing plants, aggregated approximately $750,000,000. Of this amount, about $80,000,000 have been loaned on government bonds and stocks since the war began.

LENDING OUR FINANCIAL MACHINERY

With the intricate mazes of our domestic financial machinery including every village and hamlet, it is rather humiliating to note how few facilities we have heretofore placed at the disposal of our Latin American neighbors. With the passage of the federal reserve act in December, 1913, however, national banks were permitted to establish branches in foreign countries, and the enactment of this law marked the beginning of a new international era in American banking. Only one national bank has as yet actively entered the field and established branches in South America, so that in discussing our Latin American banking machinery, I am compelled to confine myself to the operations and experiences of this single institution. Guided and directed by the broad vision of Mr. Vanderlip, the National City Bank of New York has made its début into the banking and commercial life of the south countries, establishing branches at Buenos Aires, Rio de Janeiro, Montevideo, Sao Paulo, Santos, Bahia, and Valparaiso.

Our new branch-banks have not hesitated to enter the banking field in all its ramifications functioning as buyers and sellers of exchange, collection agents, dispensers of loans and discounts, compilers of credit information, and trade reports, and channels for investment operations. It is apparent that our importers

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and exporters have been paying foreign banks a certain proportion of the value of all business transacted, and though this amount can only be estimated, an idea of this royalty may be had in the case of American coffee importations through New Orleans. American importers have paid $\frac{1}{2}$ of 1 per cent commission on the drafts with which they pay Brazilian merchants for their coffee. This amounted in 1914 to about 6 cents a bag, and as there were received through this single port in 1913–14, 1,949,851 bags of coffee, the bankers' commissions aggregated $116,987. Gaining these commissions, however, is not the fundamental advantage expected to be gained in inter-American trade by the advent of the American banks. Once an American obligation is converted into a bill on London and gets into foreign financial channels, it passes from the hands of those who might be interested in obtaining return purchases by the selling country.

With the entry of American banks into the financial theater of South America, the American dollar stepped on the stage of inter-American trade. Previous to the coming of the American banks, a merchant paid his bill by purchasing a pound draft on London, suffering oftentimes a loss in exchange on converting from his native money to sterling, and from sterling to United States dollars. Now that dollar exchange has been placed on a parity with the other foreign currencies, and with the rapidly growing use of the trade acceptance, our branch banks have assumed a permanent and important place in this trade. With the present conditions operative, an importer in Buenos Aires receives a discount rate on a dollar draft in New York of about $2\frac{1}{2}$ per cent; whereas on English bills he suffers a discount of about $5\frac{9}{16}$ per cent, plus the English bill stamp. To use any but dollar exchange, he must take a direct loss. Under the federal reserve act we may confidently look to the evolution of a market in New York for dollar drafts, not, indeed, endangering in the immediate future the supremacy of London as a financial center, but at least creating an American market for the commercial paper growing out of inter-American commerce.

Each of the new branch banks has a fully equipped foreign trade department and a credit department working in close

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coöperation. The foreign trade experts study all possible markets and report on prices, quality, styles, or any other phenomena that tend to promote trade. These departments are at the service of American exporters and manufacturers, and their reports and investigations are proving their worth. It is this sort of service that has made the German and English banks so effective in serving the needs of both the home producers and the foreign customers. This phase of the activities of our foreign banks should be emphasized, for already our exports to South America contain a higher percentage of manufactures than to any other country except Central America. Our banks must act as almost human intermediaries in the barter and sale between the countries. Instead of being entirely dependent upon foreign banks for credit information and services, the American salesman and exporter is now offered these facilities by institutions which have a mutual interest in their success.

CREDIT MACHINERY

At a meeting of South American diplomats called together by the secretary of state in September, 1914, for an informal discussion of ways and means to secure a readjustment of the dislocation of commerce and credits brought about by the European war, the secretary asked them what in their opinion could be done to alleviate the unhappy conditions obtaining at that time. Nearly all of our South American friends referred to the Americans' unwillingness to grant long time credits as perhaps the biggest drawback to a Latin American trade. The practice of requiring cash payment against shipping documents was, they believed, a strong deterrent to the rapid expansion of our trade.

The credit departments of our new banks are rapidly bringing the South American business men to a familiarity with our credit information system, and the desirability of it. Already they have completed very careful investigations of more than 20,000 South American firms and transmitted a copy to the home office in New York. Complete credit information is of the utmost importance in determining terms and rates, and the standing of instruments executed by a firm. With reliable reports

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before him, the American manufacturer or banker is in a position to deal intelligently and to grant the best terms the firm deserves.

The evolution of the commercial letter of credit, called by one eminent banker, "the fulcrum of commerce," has been a powerful force in the new machinery for expediting foreign trade. This remarkable device enables the South American buyer to make credit arrangements with the bank in his own city whereby a certain amount of funds is placed to his credit in New York, for instance, together with specific instructions as to its payment. These instructions usually specify the amount and quality of the goods purchased, and require that the draft drawn on the bank be accompanied by full sets of shipping documents.

This enables the American shipper to secure cash against presentation of shipping documents in accordance with the credit, eliminates delay for the foreign purchaser, and protects all parties from unnecessary risk. In the four weeks between November 4 and December 2 of this year, the National City Bank of New York alone has accepted bills drawn on it under commercial letters of credit amounting to $4,879,344.93.

With our branches offering their services in exchange transactions, trade promotion, credit information, and the general operations of a commercial bank, there remained one void in the otherwise compact machinery. Under the federal reserve act the branches of national banks are apparently restricted in the same manner as the parent institution. It remained for our far-sighted business men to evolve another organization typically American—a corporation—which would fill the crying need for an investment agency. With its $50,000,000 capital, the American International Corporation has been formed to support our banks in foreign countries, and to promote the enterprises that fall outside the purview of our banking operations. It can engage in business beyond the powers of branch banks, can own ships, operate, buy, sell, and promote railroads, docks, warehouses, public utilities, mines, factories, and mercantile establishments. It may take over a going concern and sell its securities to the public, or it may absorb the firm's securities and issue its own. With the keenest business men of the country direct-

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ing its operations, and with almost boundless capital behind its $50,000,000 capitalization, this piece of financial machinery may prove formidable to European competitors in the building up of Latin American industries. After only twelve months of existence, this corporation has had presented to it 1230 projects. It is now busily training a staff of young men to man its offices abroad. Perhaps none of our newly organized machinery will do more to bring the Americas into closer and permanent intimacy than this great corporation.

MERCHANT MARINE

Though I should like to bring my talk to a close with glowing phrases eulogistic of the efficiently organized industrial and financial machinery promptly procured and dedicated to our infant foreign trade, I am compelled to dampen the enthusiasm of any self-satisfied American by a passing reference to the machinery we have not provided, and seem in a slow way of providing. Without an adequate merchant marine, our present machinery is like a shining automobile without an engine. It serves to show what the whole machine could do if it were there. It has been suggested that a nation without ships is like a department store without delivery wagons, dependent on its competitor across the street to carry its goods when convenience and rivalry permit. Just at present, the United States is running the department store and paying a king's tribute on every shipload delivered.

With the growth in population and industry there has not come a proportionate growth in our foreign trade and shipping. Our American tonnage registered for foreign trade declined from 2,642,628 in 1861 to a little more than a million (1,076,152) in 1914. In 1861 ships under the American flag carried 65 per cent of our commerce; in 1914, 9.7 per cent. In the latter year, Great Britain alone carried 53.7 per cent.

The war has awakened a new feeling of nationalism in this country that may result in developing a greater national sufficiency. So gigantic have been the war markets that we have profited in spite of marine handicaps, and have been blinded from

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seeing our own pitiful weakness. In normal times the rate on wheat from New York to Liverpool is 4 cents a bushel; it is now around 40 cents. Rates on provisions have risen in many cases from $5 a ton to $1 per hundred pounds, and many products cannot be moved at all, due to prohibitive rates.

Even after we have organized the other financial machinery to make available the vast potential business fields of Latin America, we find ourselves quite at the mercy of our hired carriers, who can control almost at will much of our foreign business. For instance, some American producers of Portland cement secured orders from Brazil. The first shipments were very satisfactory as to quality and price. British cement dealers promptly got in touch with the marine interests and with agencies in Brazil. The American shippers quickly found themselves facing a prohibitive rate and an unjust reputation given their wares in Brazil, and further orders were not forthcoming.

Instead of such restrictive measures as the seaman's act, placing differentials against American registries, the British and German governments have encouraged and coöperated in every possible way in building a marine that formed the propelling force of their foreign financial body. With consistent government coöperation, the merchant marines have made ample returns, with or without subsidy aid, as exemplified by such lines as the German Lloyd, Royal Mail, Hamburg American, French Transatlantic, etc. In the case of England's trade, she has depended so much upon South America for foodstuffs that she has a continuous stream of subsidized ships to and from Argentina and Uraguay. She has been willing to reduce outgoing rates to keep her ships with full cargoes, which explains why American exporters often find it cheaper to send goods to South America via Southampton than direct from New York or Boston.

Freight has to pay transportation costs and will take the lowest competitive rate offered to move it. Whether we buy our ships abroad and amend our laws so the flag may fly with equal privilege on foreign built ships, or whether we have American ownership without the flag, we want this part of our finan-

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cial machinery repaired so that the effectiveness of the whole will not be impaired by the weakness of a single part. If necessary, let us grant a subsidy to compensate for the 5 to 8 per cent disadvantage now said to exist.

With American banks for American business, with a powerful investment corporation in operation, and with the urgent need of a merchant marine quickening the minds of our commercial world, I feel that a start has been made; but the struggle for Latin American business will require coöperation in all the details. More private banking agencies such as the twenty-five or more established by W. R. Grace and Company on the west coast, will fill a void in our machinery for conducting sales and acting as collection agencies. We should have financial agencies in the smaller as well as the larger trade centers of Latin America to promote by all legitimate means inter-American business. Imitating our European competitors, we should have more branch offices in the principal cities, and with these there should be trained salesmen who know the language. The experience of such firms as the United States Steel Corporation, Armour and Company, W. R. Grace and Company, and the Remington Typewriter Company, demonstrates the value of branch offices.

In the United States we must build as a nation in this new national enterprise. The Sherman anti-trust law makes no distinctions in its sweeping provisions against combinations, but we have come to the point where we should put the stamp of approval on legitimate coöperative combinations among manufacturers for the purpose of pooling their foreign trade business. With this, another mooted question, that of differential freight rates for export traffic, should receive intelligent consideration and legislation. The sentiment of the people should adjust itself if necessary, for the national good, to special prices on export goods, not prices below cost, but on narrow margins and perhaps below domestic prices.

Let me in conclusion sum up the links in a sound South American trade campaign. They are government coöperation with business, a prosperous merchant marine, an extensive branch banking system, reliable investment agencies for placing Ameri-

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can capital abroad, coöperative export associations, a trained personnel for the multifarious duties of South American trade, and an educational system for training men, and lastly more means for personal contact between ourselves and our South American neighbors, such as exchange of students between the universities, trade excursions and personal investigation of possibilities by our leading men. Not only must each of these factors be developed, but they must be correlated as has been done by other successful nations. The hand of opportunity is beckoning, are we ready to answer the call?

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FOUR YEARS OF CONGRESS

JAMES MILLER LEAKE

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When the sixty-third congress was called in extraordinary session on April 7, 1913, it was the first time since 1895 that both branches of congress and the executive had been under Democratic control. For nearly two decades the policies of the nation had been shaped and directed by the Republicans. Now after many years the minority had become the majority, and a Democratic President sat in the White House. In the congressional elections of 1910, dissatisfaction with the Payne-Aldrich tariff and the growing friction between the conservative and progressive wings of the Republican party had given the Democrats a net gain of 56 seats in the house of representatives, and control of that body by a majority of 66 votes. The senate during the sixty-second congress, however, still remained Republican by a majority of 10 votes. In 1912 the three-cornered presidential contest had resulted in the election of Wilson by an unprecedented electoral vote, although he did not have a majority of the popular vote cast. The schism in the ranks of the Republican party and the drift that had set in toward the Democratic ticket had increased the Democratic representation in the lower branch of congress to 290, while the Republican representation had fallen to 145, including 18 Progressives who did not go into the Republican caucus and who could not always be counted on to vote with the minority. In the senate the Democrats had gained enough seats to give them a majority of 6, a net gain of 16 seats over their membership in the sixty-second congress.

It is not the purpose of this article to give a detailed account of the legislation enacted by the sixty-third and sixty-four congresses, for the general features of this legislation are doubtless

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well known to the readers of the Review. Nor is this an attempt to subject to close analysis the provisions of the laws passed by these congresses. Rather is it a discussion of the relations between the executive and legislative branches of the government, the influence of the President on the legislation enacted, the alignment of the political parties on various important measures, and the creation of new administrative agencies.

During the whole of President Wilson's first term of office at no time has he failed to lead his party, to shape its program, to dominate its policies. Concerning the wisdom of his course, the methods he has used, the legislation he has sponsored, his relations with congress, there is room for, and there undoubtedly is, decided difference of opinion; but on one point all are agreed, friend and foe alike,—President Wilson's leadership in his party has been paramount. Two illustrations will suffice to show his influence during the sixty-third congress: first, his reestablishment of the custom, followed by Presidents Washington and John Adams, of reading his messages to congress; second, his conferences in the President's room of the capitol with senators and representatives regarding important legislation or business before congress. With the wisdom or expediency of these customs one may disagree; of their influence in securing favorable action from congress on bills in which the administration is interested there can be no question. Throughout his administration, Mr. Wilson has made the presidential message a potent influence in shaping the legislative program of the session and in winning for the administration program congressional and popular support. In the hands of the President the nature of the message has been changed entirely. Instead of the message being, as in former administrations, a long executive document droned through in a perfunctory manner to an inattentive congress by a reading clerk, it has become a short and dignified state paper appealing for needed legislation. It is delivered with a certain amount of dignity and ceremonial, is listened to attentively by congress, and is read and understood by the public. In delivering his address in this manner the President focuses the attention of congress on the administration program, and focuses the

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attention of the public on congress. In this way public sentiment may be created or made audible in support of certain legislation. That President Wilson appreciated the significance of the personally delivered address is evident from the manner in which he has made use of it, and from a statement, made early in his administration, of his reasons for using this method. He said, "The reasons are very simple. I think it is the most dignified way for the President to address the houses on the opening of the session, instead of sending the address by messenger, and letting the clerk read it perfunctorily. I thought that the dignified and natural thing was to read it. It is a precedent which, it is true, has been discontinued a long time, but which is a very respectable precedent."

The second custom also seems to be a sensible one. Although certain senators and representatives, who still believe in Montesquieu's doctrine of separation of powers, have shown some resentment at Mr. Wilson's presence in the capitol when conferring on legislation before congress,—one senator even charging the President with lobbying,—there seems to be no valid reason why the President in his capacity as party leader and as head of the administration should not use his influence with congress in every legitimate way to secure the passage of his legislative program. It seems a trifle inconsistent that some of those who early in his administration attacked Mr. Wilson for trying to coöperate with congress later attacked him for not confiding in congress and for not seeking the counsel and advice of its leaders.

FIRST SESSIONS OF THE SIXTY-THIRD CONGRESS

The sixty-third congress held three sessions: an extraordinary session which lasted from April 7, 1913, to December 1, 1913; the first regular session from December 1, 1913, to October 24, 1914; and the second regular session from December 7, 1914, to March 4, 1915. The extraordinary and first regular sessions really were continuous and may be treated as one session, as there was no recess between them. Neither congress nor the

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President could have any doubt as to what was the first and most important piece of legislation to be considered in the extra session. The most clear-cut issue of the presidential campaign had been the downward revision of the tariff. On that issue the Republicans had lost the lower house in the elections of 1910, and Mr. Taft's Winona speech in which he had praised the Payne-Aldrich act had won him few friends and had made him many enemies. The Democratic platform in 1912 had pledged its candidates and the party to honest downward revision, and the Progressive platform, while endorsing the protective principle, had condemned roundly the injustice and iniquities of the Payne-Aldrich measure.

The fight on the tariff was viewed with special interest by students of history and politics as a test of whether the Democratic party meant what its platform had declared regarding the tariff, and whether it had enough unity of purpose and sufficient constructive leadership to redeem that pledge. Many persons remembered the emasculation of the Wilson tariff bill in Mr. Cleveland's second administration, through the treachery of certain Democratic senators who deserted their party and voted with the Republicans in the senate and on the conference committee. Would the Democrats now be able to hold their narrow senate majority of six in line? How many of the Progressives who had condemned the Payne-Aldrich act would vote for a Democratic tariff? These were the questions uppermost in men's minds when the congress came together in extra session. President Wilson threw himself into the fight for tariff revision with energy, and he was greatly aided in securing an honest downward revision through the able leadership of Mr. Underwood, chairman of the ways and means committee, and Mr. Simmons, chairman of the senate finance committee, who had charge of the tariff bill in their respective houses.

Only 6 Democrats voted against the Underwood bill when it was passed by the house of representatives on May 8, 1913, while 2 Republicans, 4 Progressives, and 1 Independent voted with the majority. Four of the six Democrats who voted against the measure were representatives of the "sugar districts"

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of Louisiana. On September 9, 1913, the Simmons bill passed the senate, 44 to 37. The only Democratic senators who voted against the bill were Messrs. Ransdell and Thornton of Louisiana, whose defection was offset by the votes of senators La Follette and Poindexter, Progressive Republicans, who supported the measure. The differences between the Underwood bill and the Simmons bill were then reconciled in conference, the report of the conference committee being completed on September 29, 1913. This report was adopted by the house on the next day 254 to 103, 4 Democrats voting against the report and 7 minority members voting for it; and by the senate on October 2, 1913, by a vote of 36 to 17, two Democrats voting against the report and two Progressive Republicans for it. President Wilson signed the bill on October 3, 1913, and the tariff pledges of the Democratic party had been redeemed.

The Underwood tariff is a measure levying duties with the purpose of raising revenue. In general it lowered by an honest revision the duties imposed on imports; enlarged and extended the free list; provided for the admission of sugar to the free list after May 1, 1916; and provided for an income tax on corporations and individuals. The income tax provision of the new tariff is one of its most interesting features. The normal tax on incomes, to be assessed annually, was to be one per cent on net income. Exemption was to be allowed individuals, if single up to $3000, if married up to $4000. There was to be a surtax on large incomes as follows: net incomes exceeding $20,000 and not more than $50,000, 1 per cent additional; exceeding $50,000 and not more than $75,000, 2 per cent; exceeding $75,000 and not more than $100,000, 3 per cent; exceeding $100,000 and not more than $250,000, 4 per cent; exceeding $250,000 and not more than $500,000, 5 per cent; exceeding $500,000, 6 per cent. The levying of a federal income tax had been made constitutional by the sixteenth amendment, and the income tax provisions of this tariff act have been upheld in a recent decision by the United States supreme court.

It would be extremely difficult to draw any scientific conclusions concerning the Underwood tariff. There is certainly little

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room for doubt that the methods by which its schedules were determined represent a distinct advance over the methods that obtained in determining the schedules of the McKinley, Dingley, and Payne tariffs. It would be difficult to prove that the schedules of the Underwood measure are perfect; but they seem to represent an honest attempt to levy duties so as to yield revenue and not to protect certain pet industries. The writer believes that the Underwood measure would yield sufficient revenue to meet the usual expenses of the government in normal times, and this belief is based on the duties on imports from March 1, 1914, the date on which the new tariff became effective, to the outbreak of the European war; and that even in the abnormal times since the outbreak of the war it has produced more revenue than the Payne tariff would have provided under similar conditions. The Payne tariff depended more on import duties for revenue than does the Underwood tariff; consequently, in the cutting off of imports due to the effects of war, the loss under any of the Republican tariffs would have been larger. Moreover, the Underwood tariff in taxing incomes depends on that source for a large amount of revenue that would have been unprovided for under the Republican system of protection. The income tax has yielded far larger returns than were estimated by the framers of the new tariff measure.[1]

On May 26, 1913, while the consideration of the tariff was under way, President Wilson declared that there was a numerous, industrious and insidious lobby working against the proposed tariff bill; that newspapers were "being filled with paid advertisements calculated to mislead not only the judgment of public men but also the public opinion of the country." He asserted that "there is every evidence that money without limit is being spent to sustain this lobby and to create an appearance of a pressure of public opinion antagonistic to some

[1] Income tax for year ending June 30, 1915.

Corporation income tax	$39,144,529.19
Individual income tax	41,046,165.61
Total	$80,190,694.80
The income tax for year ending, June 30, 1916 was	$124,937,252.51

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of the chief items of the tariff bill." These charges led to the famous lobby investigation, carried on under a resolution of the senate. Senator Penrose of Pennsylvania (Republican) stated that the practice of lobbying in the old sense was practically dead, and that the number of lobbyists then present in Washington was not half as great as it was when the schedules of the Payne-Aldrich act were under consideration. Senator Kenyon of Iowa (Republican) said the President was entirely right in the charges he had made; and Senator Pittman of Nevada (Democrat) also supported the charges. During the investigation Martin L. Mulhall, formerly an agent for the National Association of Manufacturers, and David Lamar, a stock manipulator in New York, furnished sensational testimony. Nothing tangible came from the investigation, though it was generally admitted that the President's charges had been sustained.

Throughout the revision of the tariff there had been little or no friction between the President and his party leaders in congress; but when he turned his attention to the redemption of the second party pledge, the passage of an adequate banking and currency law, Mr. Wilson early found opposition both within the ranks of his own party and from the minority. Representative Glass and Senator Owen, chairmen respectively of the house and senate committees on banking and currency, in cooperation with the President, had made such progress in the matter of reform of the existing system, that on June 19, 1913, a full text of the proposed legislation was published, and to this tentative measure was applied the name, federal reserve bill. Messrs. Glass and Owen held hearings in various cities, and protests or suggestions from bankers were received.

On June 23 President Wilson addressed a joint session of congress asking congress to enact a law providing for needed reforms in the banking and currency system. The Glass bill was introduced in the house on June 26 and on the same day the Owen bill was introduced in the senate. Consideration of the measure was begun in the house committee on banking and currency; several amendments were added, but the general features of the

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measure remained unchanged and on August 11 the changes were approved by Mr. Wilson. The measure was adopted by the Democratic caucus toward the end of August and made a party measure. Early in September it was reported by Mr. Glass to the house. Here it was bitterly attacked by the Republicans and Progressives but only minor amendments were made, and on September 18 it passed the house 286 to 84, only 3 Democrats voting against it, while 23 Republicans and 10 Progressives supported it. Two representatives voted present and 58 who were present did not vote.

In the senate, consideration of the Owen bill was refused until the passage of the tariff bill; but on August 14 the Democratic caucus voted to discuss currency legislation without recess, and consideration of the bill in caucus was begun. Hearings were given bankers but general action on the bill was delayed until the first part of October, when President Wilson expressed dissatisfaction at the slow progress of the bill. This criticism by the President was resented by Senators Reed, O'Gorman, and Hitchcock, who showed marked hostility to the measure. A deadlock ensued which lasted until the close of the extra session, Senator Hitchcock uniting with the Republican minority on the senate committee to delay the bill.

On December 1, 1913, the extra session ended, and on the same day the first regular (long) session opened. The currency bill, which already had been agreed to by the Democratic caucus, was introduced in the senate. On December 13 the measure was bitterly attacked by Senator Root, who condemned the federal reserve plan as having the basal defects of Bryan's doctrines. At the same time he made one valuable constructive criticism. In objecting to the size of the gold reserve under the new bill, he pointed out the dangers of expansion of the currency. To meet this objection the bill was modified to call for a larger gold reserve. On December 19 the bill passed the senate, 54 to 34, 6 Republicans voting with the solid Democratic majority for the measure. On December 22 the house of representatives adopted the conference report 298 to 60; and on the following day the senate agreed to the report 43 to 25, all of the Democrats

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present supporting the measure and 3 Republicans and 1 Progressive voting for the report. On the same day the President signed the bill.

Even the most severe critics of the federal reserve act now admit that in most respects it is a good law. Certainly it is far superior to the antiquated banking and currency system adopted as a civil war expedient, which it has replaced. The old banking and currency system had outworn its usefulness largely because of its inelasticity. This basal defect is remedied in the new law. From the point of view of administration the most interesting feature of the new system is the creation of the federal reserve board of seven members, the secretary of the treasury and the comptroller of the currency acting ex officio, and five members named by the President with the consent of the senate. The country is divided into twelve districts; in each there is a federal reserve city in which is located the federal reserve bank of the district. Every national bank is required to become a stockholder in the federal reserve bank of its district. The federal reserve act went into effect in August, 1914, just after the outbreak of the European war, and it has proved of nearly incalculable value during the period of readjustment of American business to meet war conditions.

The Democratic party was pledged to legislation clarifying and extending the Sherman anti-trust law and supplementing the provisions of that statute. On June 5, 1914, the bill creating a federal trade commission to enforce the provisions of the anti-trust laws, and to aid and assist business in complying with the federal statutes against monopoly and restraint of trade, passed the house without a roll call. On the same day the Clayton bill was adopted 275 to 54, and the railway capitalization bill was passed 325 to 12.

On August 5, 1914, the senate passed the federal trade commission bill, 53 to 16, with 12 Republicans voting for the measure and 2 Democrats opposing it. The Clayton bill was voted on favorably by the senate on September 2, by a vote of 46 to 16, with 7 Republicans and 1 Progressive voting with the majority. The conference committee's report on the trade commission bill

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was accepted by the senate on September 8 by a vote of 43 to 5, and on October 5 the same body accepted the conference report on the Clayton bill 35 to 24. The house on October 8 agreed to the conference report on the Clayton bill 244 to 54. The main opposition to the Clayton bill on the Democratic side came from Senator Reed of Missouri.

The Underwood tariff, the federal reserve act, and the federal trade commission and Clayton acts had been party measures called for to redeem Democratic pre-election promises. The next important legislation enacted by congress during this session was the repeal of the exemption granted to American coastwise shipping under the Panama Canal act of 1912. The repeal of this exemption was secured by the earnest efforts of President Wilson, who took the initiative in the matter. The fight in congress on this measure was a bitter one, and it looked for a while as if an irreconcilable breach between the President and prominent members of his own party in congress had been opened.

The situation leading up to the exemption repeal controversy was as follows: The Panama Canal act of 1912 contained a provision that American vessels engaged in the coastwise trade should be exempted from the payment of tolls. This clause met with strong opposition, in and out of congress, at the time of its passage. Nevertheless both the Democratic and Progressive platforms in 1912 had favored the exemption; so in using his influence in favor of its repeal Mr. Wilson was repudiating a plank in the platform upon which he had been elected, and would doubtless alienate some of the Democrats and Progressives who had supported his other legislation but who felt that American shipping engaged in the coastwise trade should be exempt from tolls.

His reasons for favoring the repeal of the exemption clause, President Wilson stated very clearly in a letter to Mr. W. L. Marbury, of Baltimore. Mr. Wilson says:

"With regard to the question of Panama Canal tolls my opinion is very clear. The exemption constitutes a very mistaken policy from every point of view. It is economically unjust; as

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a matter of fact it benefits for the present, at any rate, only a monopoly; and it seems to me to be a clear violation of the terms of the Hay-Pauncefote treaty."

On March 5, 1914, President Wilson addressed a joint session of congress on the subject of the exemption repeal, earnestly pleading with congress to repeal the objectionable clause in the canal act; he gave substantially the same reasons that he had written to Mr. Marbury, but laid special stress upon the fact that the exemption was in direct conflict with our treaty.

The committee of the house of representatives acted promptly, and on March 6, by a vote of 14 to 3, reported a bill repealing the exemption. The minority members of the committee opposed the repeal bill in a minority report. The debate in the lower house was begun after the advocates of the repeal measure had secured the passage of a resolution limiting debate. Although Speaker Clark opposed the resolution on the floor of the house, it was adopted 200 to 172, 8 Republicans voting with the majority and 57 Democrats voting against the resolution. The debate on the bill was bitter and violent, and not until the last day of March was the measure passed. On that day forty speeches were made, including a spectacular and impassioned plea against the repeal by Speaker Clark. Mr. Underwood, chairman of the ways and means committee, had also opposed the repeal; yet in spite of the fact that these two influential Democratic congressmen, who had been his rivals for the presidential nomination in 1912, strongly opposed the repeal bill, President Wilson carried 192 of the house Democrats with him and only 57 followed the speaker and majority leader. The vote on the repeal bill itself was an even more decisive victory for the administration, for the measure passed by a vote of 247 to 161; 220 Democrats, 25 Republicans, and 2 Progressives voted Yea, and 52 Democrats, 92 Republicans, and 17 Progressives, Nay.

The repeal question came before the senate on April 29 when the committee on inter-oceanic canals reported the house repeal bill without recommendation by a vote of 8 to 6. With the bill

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was reported, also without recommendation, an amendment by Senator Simmons stating that "neither the passage of this act, nor anything therein contained shall be construed or held as waiving, impairing, or affecting any treaty, or other right possessed by the United States."

In the committee, Senator O'Gorman, its chairman, was a pronounced opponent of the repeal bill and the vote in the committee was divided; 5 Democrats and 3 Republicans voted for a favorable report, 3 Democrats and 3 Republicans voted against it. A motion for an unfavorable report was lost 5 to 9. Two amendments were offered to the repeal bill; one by Senator Norris to refer the question to the Hague for arbitration, and one by Senator Borah to postpone a decision in the matter until after the next congressional elections, when the matter could be made one of the campaign issues. Neither of these amendments was accepted. On June 11 the repeal bill was passed by the senate 50 to 35, 37 Democrats and 13 Republicans voting for the repeal, and 23 Republicans, 11 Democrats, and 1 Progressive voting against it. The Simmons amendment was adopted by the senate 57 to 30, and was accepted by the house 216 to 71.

During the latter part of the first regular session of the sixty-third congress several acts were rendered necessary by the European war. All of these measures were of enough importance to have attracted considerable attention in an ordinary session, but they had been overshadowed by the tariff, federal reserve, federal trade commission, Clayton, and Panama Canal tolls repeal acts.

The first in importance of these measures was the war revenue bill, which was introduced in the house on September 21. On September 4 the President had addressed congress on the necessity of providing additional revenue to meet the deficit which would be created by the falling off of imports from countries affected by the war. The war revenue bill provided for the raising of $105,000,000 by special taxes on beer and wines, gasoline, brokers and bankers, tobacco dealers' licenses, theatres in towns of more than 15,000 inhabitants, circuses and other shows, public billiard rooms and bowling alleys. The stamp taxes

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were to remain in force till December 31, 1915, but the other special taxes were to run until repealed. This revenue measure passed both branches of congress by a party vote.

Another important measure passed as a result of the European conflict was the act for admitting foreign-built ships to American registry; and this measure was supplemented by the war risk insurance bureau act, which created such a bureau in the treasury department with a fund of $5,000,000 to insure American vessels and their cargoes against loss by war. Still another bill the passage of which was caused by war conditions was the measure providing for a large issue of emergency currency.

Other legislation passed by the sixty-third congress during its extraordinary and first regular sessions were: the Alaskan Railway, the Hetchy-Hetchy, the cotton futures, the Alaskan coal leases, the women's eight-hour labor for the District of Columbia, and the regulation and taxation of imports of opium acts.

Several subjects were considered in these sessions of congress but were not completed: the seamen's bill, the bill for a federal-owned merchant marine, the immigration bill with a literacy test, the Jones bill for a larger measure of self-government for the Philippines, several conservation measures, the farm land banks bill, and the bill for federal regulation of the stock exchange.

A spectacular filibuster against the rivers and harbors appropriation bill was led by Senators Burton and Kenyon on September 18 and 19, 1914. To break this filibuster the senators having the bill in charge agreed to reduce the amount of the appropriation from $53,000,000 to $20,000,000.

Congress adjourned on October 24, 1914, after a continuous session of one year, six months, and seventeen days, the longest continuous session on record, during which it had transacted a vast amount of important business. The Democratic party had held its majority unbroken, had done much to redeem its platform pledges, and had established an enviable record for constructive legislation.

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THE SHORT SESSION OF THE SIXTY-THIRD CONGRESS

The short session began on December 7, 1914, and lasted until March 4, 1915. In his address to congress at the opening of the session, President Wilson urged no new legislation, but asked that congress complete certain legislative business, unfinished at the close of the previous session. To meet the exigencies created by the European war, Mr. Wilson considered two steps necessary: first, that the United States should develop its resources; second, that a merchant marine should be created to distribute American commodities to the markets which awaited them. To accomplish this he urged the passage of three measures pending in congress, two of which were conservation bills already passed by the house. The third measure was the shipping bill providing for a government-owned merchant marine. The President asked that congress pass the bill conferring a larger measure of self-government upon the Philippine Islanders, a measure which had been pledged in the Democratic platform. The President alluded to national defense in general terms, advocating a strong navy and some system of training our citizens in the use of arms.

The immigration bill with a literacy test, which had been passed by the house in another session, was voted on in the senate on January 2, 1915; it passed by a vote of 50 to 7 not divided on party lines, 29 Democrats and 21 Republicans voting for and 5 Democrats and 2 Republicans against the bill. On January 28 President Wilson vetoed the measure on account of the literacy test, which he held to be a test not of fitness but of opportunity, and therefore an unjustified reversal of our national policy toward immigration. On this account the President felt it necessary to veto the bill, though he was willing to concur in most of its other provisions.

On February 27 the senate adopted the conference report on the La Follette-Feruseth or seamen's bill. This measure had been passed by the senate in October, 1913, without a roll call, had been referred to the house committee on merchant marine and fisheries, but was not reported and passed by congress until

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the short session. It received the signature of the President on March 4, 1915, but did not go into effect until fifteen months later. This measure has aroused considerable opposition among the shipping interests, although it has the support of organized labor.

The administration ship purchase bill was introduced in the senate on December 9, 1914, by Senator Stone. It was referred to the committee on commerce and was favorably reported on December 16. Decided opposition to the measure now developed in the senate, seven Democrats and nearly all of the Republicans in that body opposing it. During a continuous session of fifty-five hours,—the longest on record,—a filibuster was maintained against the measure during the course of which Senator Jones talked for thirteen hours and fifty-five minutes. On February 1, 1915, Senator Clarke moved to send the bill back to the committee on commerce. A point of order against this motion was raised, and was sustained by the vice-president; but his decision was overruled 46 to 37, 9 Democrats and 28 Republicans voting against the ruling. A motion to lay Mr. Clarke's motion on the table was defeated 44 to 42, 7 Democrats voting for the original Clarke proposition. Several attempts to reconcile the differences of Democratic senators on this measure were of no avail. The ship purchase bill was approved by the Democratic house caucus, 29 representatives voting against it, and was passed in the house 215 to 121, the minority being made up of all the Republicans voting and 19 Democrats. The bill made no further progress in the senate and it was finally sent to conference with a provision that it should remain there until February 27. No further action on the measure was taken in this congress.

The ship purchase bill was complicated by the question of the interned German liners. Some senators and representatives believed that it was the intention of the government to purchase these vessels, and that such a purchase would be looked upon by Germany's enemies as an unneutral act. By buying these ships it was held that the United States would be purchasing a quarrel. For these reasons and for party purposes the Republicans

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carried on a persistent filibuster against this measure, which not only defeated the ship bill but held up a large amount of other legislation. Senators Gallinger, Burton, Jones, and Smoot were the leaders in this filibuster.

The pending conservation measures and the Philippines autonomy bill failed to come to a vote in this session, although they had been urged upon congress by the President. The senate also failed to act on the Nicaraguan and Colombian treaties, which had been laid before it for ratification. The question of rural credits had been considered during this session and the house had passed such a measure as a "rider" to the agricultural appropriation bill; but the senate objected to the rider and it was eliminated in conference. It was provided, however, that the subject of rural credits should be considered by a joint committee of which Representative Carter Glass was named as chairman.

The naval construction bill passed by congress during this session provided for two battleships, six destroyers, two large submarines, and sixteen defence submarines. This measure was adopted by a vote that did not divide on party lines. The army and navy appropriation bills were liberal and were voted practically unanimously in both branches.

Two proposed amendments to the Constitution were acted upon by the house of representatives in the short session. On December 22, 1914, the proposed amendment providing for nation wide prohibition received 197 votes to 189, but did not have the two-thirds vote necessary for adoption. The party vote on the amendment was as follows: For, 114 Democrats, 68 Republicans, 11 Progressives, 4 Progressive Republicans; Against, 141 Democrats, 46 Republicans, 1 Progressive, 1 Independent. On January 12, 1915, the proposed constitutional amendment providing for woman suffrage was defeated by a vote of 174 to 204. The party division was as follows: For, 86 Democrats, 72 Republicans, 12 Progressives, 3 Progressive Republicans, 1 Independent; Against, 171 Democrats, 33 Republicans.

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There was an attempt made in the short session to pass the immigration bill over the presidential veto. On February 4, 1915, the vote was taken, the roll call showing that the veto was sustained by a very narrow margin. There were needed to override the veto 266 votes; 261 members voted for the repassage of the measure, while 136 voted against it. Party lines were broken; 166 Democrats and 78 Republicans voted to pass the bill over the veto, 102 Democrats and 32 Republicans voted to uphold it, while practically all the Progressives voted to repass the bill.

The failure of the ship purchase bill and other measures that could not be brought to a final vote was due largely to filibustering tactics adopted by their opponents. The Democratic majority openly criticised the blocking of their party program; and on March 2, 41 Democratic senators asked that a committee be appointed to report on a revision of the senate rules of debate at the next session. This action was taken after the committee on rules had reported adversely on a plan to limit debate in the senate.

On March 4, 1915, the sixty-third congress after nearly two years of continuous sessions came to an end. No congress in the history of our government had put through so extensive a program; and although several measures of importance had been held up in the last session, the majority party in the sixty-third congress had gone far toward redeeming its platform pledges. The President and his party leaders had in the main coöperated to secure the enactment of needed legislation; the country was prosperous; and in spite of the European war and the Mexican situation, business seemed to be adjusting itself rapidly to abnormal conditions such as no one could have foreseen. The tariff had been revised downward, an income tax put in motion, the federal reserve system inaugurated. Moreover, the Sherman law had been amended and a federal trade commission created to aid in its enforcement. Of the sixty-third congress President Wilson spoke as follows on the day when its deliberations came to an end:

"A great congress has closed its sessions. Its work will prove

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the purpose and quality of its statesmanship more and more the longer it is tested."

During the sixty-third congress there had been introduced in the house of representatives 21,616 bills, 441 joint resolutions, 61 concurrent resolutions, 723 resolutions, and 1513 reports; and into the senate, 7751 bills, 245 joint resolutions, 38 concurrent resolutions, 574 resolutions, and 1072 reports. Out of this vast amount of business introduced into congress there were enacted 342 public and 271 private acts.[2]

THE LONG SESSION OF THE SIXTY-FOURTH CONGRESS

The congressional elections of 1914 had returned a congress that while Democratic in both branches, showed a decreased majority in the lower house. The rapid disintegration of the Progressive party had resulted in many of its members returning to the Republican camp; so that many congressional districts, normally Republican, in which Democrats had been elected in 1912 as a result of the Republican schism, sent back Republican representatives. In spite of the Republican gains the Democrats still had a working majority of 22 over the minority parties, and a plurality of 29 votes over the Republicans. The Progressive representation of 15 in the sixty-third congress had fallen to 5 in the sixty-fourth. In the senate the Democrats gained one seat which gave them a total of 55 and a majority of 14 over the 41 Republicans.

The first session of this congress began December 6, 1915, and lasted until September 8, 1916. In his address to congress on December 8, the President asked for a law to end the plots of foreign interests which defied our neutrality and set the authority of our government in contempt. Although the President made no specific charges against any national group by name, there went up from German-Americans a storm of protest; and

[2] These figures on the business before the sixty-third congress were furnished by Mr. Henry J. Harris, chief of the division of documents, library of congress. Allowing for a few measures numbered for report upon which no report was made, they are substantially correct; as there would be only a small number, possibly a half dozen, such cases in a congress.

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German influences worked against the President all through this session.

The President endorsed the plans for more adequate national defense, advocated the enlargement of the army and navy, asked for the passage of the shipping bill that had been held up in the senate in the last session of the preceding congress, and suggested the lowering of the exemption figure at which the surtax upon incomes should be levied.

Several measures whose passage had been urged by the administration, but had been held up in the the previous congress, were enacted during this session. Among these the more important are:

First, the government shipping bill, which had been passed by the lower branch of the previous congress but had been held up by the senate filibuster against it. On August 15, 1916, the house accepted the senate's amendments to the bill, and on August 18 the senate passed the amended measure by a vote divided on strictly party lines, 38 to 21. On August 30 the house concurred in the bill as passed by the senate, and on September 7 it received the President's signature and became a law. From the point of view of party politics the passage of the shipping bill is of interest in being the end of a long fight for and against the measure. From the administrative side it is of interest because it created a shipping board to be appointed by the President with the consent of the senate, to supervise the operation of the $50,000,000 government controlled corporation authorized in the law.

Second, the Philippines autonomy bill had been considered throughout the sixty-third congress, although it was not voted on during the last session. The bill with an amendment providing for Philippine independence in five years passed the senate, Vice-President Marshall casting the deciding vote in its favor. On May 1 the bill as amended in the senate was rejected by the house 213 to 165, 30 Democrats voting with the Republicans to defeat it. The Jones bill was then offered as a substitute and was adopted without roll call. On August 16 the Jones bill was passed by the senate, 37 Democrats voting

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for and 21 Republicans and 1 Democrat against it. The house on August 19 without a division approved the conference report, and ten days later President Wilson signed the bill.

Another subject that had been considered in the previous congress was that of creating a system of rural credits. Several bills on the subject had been introduced and the lower branch had passed a rural credits "rider" to the agricultural appropritions bill, which had been rejected in the senate. On May 4 the senate passed the Hollis farm loan bill 58 to 5, Senators Brandegee, Lodge, Oliver, Page, and Wadsworth, all Republicans, voting against the bill. The house on May 15 passed the bill, the vote being 295 to 10; and on July 17 it received the presidential signature. The bill provides for a federal farm loan board consisting of the secretary of the treasury ex officio, and four members to be appointed by the President with the consent of the senate. Continental United States is divided into twelve districts by the board, and these districts are known as federal land bank districts. The duties and powers of the board in the field of rural credits are very similar to those of the federal reserve board in the field of currency and banking.

An important bill passed largely through the active support given the measure by President Wilson is the Keating child labor bill. Indeed, it is not too much to say that it was mainly due to the President that the matter was brought up for consideration in this session, and that without his insistent demand for its passage it could hardly have come to a vote. So selfish was the opposition of the interests that opposed the passage of the bill that most of the senators who sympathized with the abolition of child labor, but voted against the bill on constitutional grounds, repudiated the methods of the business interests which fought its enactment. The measure had been passed by the house in a former congress and was reconsidered and again passed by the house early in February 337 to 46. On August 8 the senate passed the measure, 52 senators voting for and 12 senators against it. Of these twelve opponents 10 were Democrats and 2 Republicans. The bill excludes from interstate commerce the products of child labor.

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Another important bill enacted in this session provides for a system of workmen's compensation for government employees. This humanitarian legislation met with slight opposition, and went through both branches of congress nearly unanimously.

The Shackleford-Bankhead good roads bill, a measure which provides a large sum of money for state distribution to be used in building improved highways, passed in both house and senate without the drawing of party lines, and with little opposition.

The omnibus revenue bill designed to raise $205,000,000 annually was passed by the house of representatives on July 10 by a vote of 240 to 140, 39 Republicans and 1 Independent voting with the majority party. It was passed by the senate September 6, all of the Democrats and 5 Republicans voting for the bill and 16 Republicans opposing it. The main features of the revenue measure are as follows: it increases the income tax on large incomes, imposes inheritance taxes, provides a protective duty on dyestuffs, taxes profits on munitions, places a special tax on joint stock companies, brokers, pawnbrokers, ship brokers, custom-house brokers, theatres and places of amusement, circuses, bowling alleys and billiard tables, and on manufacturers of tobacco, cigars, and cigarettes; and gives the President authority to adopt retaliatory measures toward any belligerent nation that illegally interferes with the trade or commerce of the United States. All stamp taxes were eliminated in this revenue bill.

One of the most interesting features of the revenue bill is the provision creating a tariff commission, not more than three of of its six members to be of the same political party. The members are appointed by the President with the consent of the senate to make a scientific study of the tariff, and to report to the President and to the ways and means (house) and finance (senate) committees all information at its command. The commission is required to make a report to congress on the first Monday of December in each year.

Connected with the question of revenue was the repeal of the free sugar provision of the Underwood tariff, which would have become effective after May 1, 1916. On March 16 the house

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passed the repeal, 346 members voting for and 12 against it. The senate adopted a resolution on April 11, postponing for four years the admission of sugar to the free list; but on April 22 it adopted the house repeal bill 59 to 10. Practically all opposition to this repeal came from Democrats.

Perhaps the greatest work accomplished in this session was in connection with the defense program. Secretary of War Garrison handed in his resignation on February, 1916. On January 10, 1916, the Garrison plan for reorganization of the army along national lines had been outlined in a letter to Senator Chamberlain, chairman of the senate committee on military affairs. It was favored by the administration, and Secretary Garrison hoped to see its provisions become the basis for the new army legislation. President Wilson had continued to espouse the Garrison plan until it became apparent that there was no possibility of its being accepted by congress. The President had then determined to support such an army bill as congress would pass, rather than have the army reorganization blocked. The strained relations with Germany and the conditions on the Mexican border made it imperative that something be done; yet the general peace sentiment of the American people was against a large army and universal service, and an active propaganda was being brought to bear against preparedness. Some of the members of congress did not believe in a large army or navy, and it was clear that any plan for a large army would meet with determined opposition. In such a situation Mr. Wilson turned to the support of the army reorganization (Hay) bill, which was passed by the house on March 23, after an amendment raising the regular army from 140,000 to 220,000 men had been defeated. The vote on the Hay bill was practically unanimous, only two members, one Republican and one Socialist, voting gaainst it. In the senate the bill was passed on April 18 without opposition, there being no recorded vote.

Just before the passage of the Hay bill the house and senate had adopted a resolution to increase the regular army to its full strength by recruiting 20,000 new men. This emergency resolution had been carried without any partisan opposition. In June a reso-

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lution was adopted for drafting the national guard into the federal service was adopted, and a resolution making provision for the dependent families of members of the national guard called into border service was passed. Both of those resolutions were passed with party lines broken.

The appropriations made for the maintenance and support of the army and navy were very generous. On June 26 the house passed the largest army budget in its history. The army appropriation bill carried about $182,000,000, as voted by the house without roll call. On July 27 the senate made an even larger appropriation for the army, $313,970,447, which provided for the payment of $50 a month to the families dependent on guardsmen or regulars on the Mexican border. The conference committee reconciled these differences by agreeing on $267,579,000 as the amount of the appropriation, and the report of the committee was accepted by the house on August 9, only 9 representatives voting against its adoption. This measure was vetoed by President Wilson on August 18 because of a clause exempting retired officers in times of emergency. The objectionable clause was omitted upon the repassage of the bill, which received the signature on August 29.

To the navy this congress was even more generous, providing for an extensive program of naval construction, and passing a naval appropriation bill of about $313,000,000. The vote on these measures was not on party lines. The provision for a government-owned armor plate plant was introduced in the senate by Senator Tillman. It was passed in that body 58 to 23, 9 Republicans voting for it and 23 against it. This measure was incorporated in the naval appropriations bill before its passage by the lower house.

Three important treaties were ratified by the senate during this session. On February 18 the treaty with Nicaragua was ratified by a vote of 55 to 18, 5 Democrats and 13 Republicans voting against ratification. In return for $3,000,000 the United States is given two naval bases and the right to build a canal across Nicaragua. Ten days later the treaty with Hayti, which establishes a financial and police protectorate by the United

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States over that country, was ratified without roll call. On September 7 the senate ratified the treaty with Denmark providing for the sale of the Danish West Indies to the United States for $25,000,000.

The submarine campaign of the German empire caused great anxiety in congress during February and March. On March 1, 1916, the Austro-German classification of armed enemy merchantmen as warships became effective. The right of Americans to travel on such ships being called into question, it became evident that the policy of the President would be to insist strongly upon our rights as a neutral. In order to force the President's hand, Representative McLemore of Texas, a Democrat, introduced a resolution warning American travelers to avoid armed merchant ships of belligerents. On the motion to table this resolution those who wished to uphold American rights were victorious, for it was tabled by vote of 276 to 142. In spite of the fact that the Republican party had been accusing the President of timidity and vacillation, 102 Republican representatives, including the minority leader, Mr. Mann, voted for the surrender of a clearly recognized right. Only 33 Democrats voted against tabling the resolution, 5 Progressives, 1 Independent, and 1 Socialist, 102 of the 142 votes cast against tabling being Republicans. With the 182 Democrats who voted to table the measure, 93 Republicans and 1 Progressive cast their votes.

In the meantime Senator Gore introduced a resolution in the senate which stated that "the sinking by a submarine without notice or warning of an armed merchant vessel of her public enemy, resulting in the death of a citizen of the United States, would constitute a just and sufficient cause of war between the United States and the German empire." Here was a resolution that if debated in the senate might create bad impressions abroad; embarrass the President and secretary of state in their negotiations for the protection of American citizens and the upholding of American rights; and give play to partisan politics in the face of a very difficult foreign complication. The administration forces in the senate brought about a vote to table this

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resolution. The vote was taken on March 3, and the resolution was tabled 68 to 14; only 2 Democrats voted against tabling and 12 Republicans, while 49 Democrats and 19 Republicans helped to put this bit of legislative nitroglycerine in a safe place.

Two appointments that came up for confirmation in the senate caused considerable friction between those who favored and those who opposed confirmation. On January 28, 1916, President Wilson had named Mr. Louis D. Brandeis to the position of associate justice of the United States supreme court. One of the best organized attacks that has ever been made on an appointment to the supreme court was begun. All kinds of charges were made against the appointee from radicalism to unprofessional conduct. Probably no supreme court justice has had his career so thoroughly investigated as was that of Mr. Brandeis during the first five months of 1916. Most of the charges on investigation proved to be either hearsay or prejudice; and on June 1, the nomination of the President was confirmed by the senate, the vote being 47 to 22. Among those who voted for confirmation were 3 Republicans of Progressive leanings, while one Democrat voted against confirmation, giving as his reason the belief that Mr. Brandeis did not have the judicial temperament.

The other appointment, that of Mr. George Rublee, who had already served fifteen months as a member of the federal trade commission, and was considered one of the most able members of that body, failed of confirmation through the fact that he was "personally objectionable" to Senator Gallinger of New Hampshire. In accordance with the custom of senatorial courtesy the senate by a vote of 42 to 36 declined confirmation, 5 Republicans voting for and 14 Democrats against confirmation. The senate refused to reconsider the appointment, 10 Democrats voting with the minority party to block the reconsideration. Senatorial courtesy in such an aggravated form that it robs the government of a valuable servant to soothe the feelings of one senator seems to need heroic treatment.

The closing days of this session were exciting ones. The presidential campaign was beginning and the strained relations

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that had existed between the railroad executives and the heads of the four brotherhoods for several weeks were nearing the breaking point. By the last of August it was evident that something must be done to avert a nation wide railroad strike, which now seemed imminent. After conferences with the leaders of the two contending interests, in which he tried to get them to come to some understanding but without success, President Wilson went before a joint meeting of the senate and house of representatives on August 29. He outlined the situation and asked congress to adopt the following program:

> Immediate provision for the enlarging of the interstate commerce commission;
>
> Establishment of an eight hour day for railroad employees with one and one-half hour's pay for each hour overtime;
>
> Congressional authorization of a commission to study the effect of the eight hour law, and to report on its workings;
>
> Authorization that the interstate commerce commission grant an increase in freight rates if facts should justify such increase;
>
> An amendment to the existing statute providing for mediation, conciliation, and arbitration, by adding a provision for a full public investigation of the merits of such dispute before a strike or lockout may lawfully be attempted;
>
> Lodgment of power in the executive to take control of railways in case of military necessity and to draft into military service train crews and administrative officials.

On August 31 the Adamson eight hour bill was introduced in the house, and having been made the special order of business was passed on September 1 by a vote of 269 to 56; 2 Democrats and 54 Republicans made up the opposition, while 70 Republicans voted with the majority. The bill was passed by the senate on the following day, 42 Democrats and 1 Republican voting for and 2 Democrats and 26 Republicans against the bill. The President having stated that he would sign the bill, the strike which had been ordered for September 4 was called off on September 2; and the bill on September 3 was given the executive

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signature. The Adamson eight hour labor act was looked upon as an emergency measure, and although bitterly attacked by the Republicans it prevented the strike and saved the country from a serious tying up of business on the eve of an important election. The constitutionality of the act has been upheld by the United States supreme court.

On September 8, 1916, the first session of the sixty-fourth congress came to an end, leaving for the short session a large amount of legislative business that might have been completed had the senate played less partisan politics and resorted less to the filibuster.

THE SHORT SESSION OF THE SIXTY-FOURTH CONGRESS

Congress was called together for the short session on the first Monday in December, and remained in session except for the Christmas recess until March 4, 1917. Enough business which should have been finished in the first session was carried over to make this a very busy meeting, and it is doubtful if the program before congress could have been completed if every effort had been made to do so. As in the previous session much time was wasted by the senate in filibustering, and a large amount of important business remained undone on March 4, when the congress came to an end. To quote the *Independent*, "Owing to the extraordinary pressure of business and especially to the Republican filibuster against the revenue bill and the pacifist filibuster against the armed neutrality bill, most of the tasks of the session remain unaccomplished."

More than two thousand nominations failed of confirmation by the senate because of lack of time for consideration; and neither the railroad labor problem nor the high cost of foodstuffs received the attention which it merited, and which the public expected congress to devote to it. The armed neutrality bill, after being passed by the house, failed in the senate because of insufficient time under the senate rules to bring it to a vote. The army appropriation bill and several other important appropriation measures suffered a similar fate.

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The revenue bill to raise $350,000,000 by special taxation and bond issues, about half of the amount to be spent on preparedness, was passed by a vote that divided along party lines, most of the Republicans voting against the bill on the grounds of opposition to direct taxation and a preference for higher customs duties instead.

The Burnett bill (immigration), which had already been vetoed by President Wilson and which had failed of passage over the veto, was again passed by both houses in substantially the same form in which it had been passed and vetoed. It was again vetoed by President Wilson and upon the same grounds—opposition to the literacy test. The President vetoed the measure on January 29, 1917, and three days later the house passed it over the veto 285 to 106. On February 5 the senate overrode the veto by a vote of 62 to 19. Party lines were disregarded entirely in repassing the immigration bill.

Another bill in the passage of which party lines were entirely obliterated was the Porto Rico bill, by which a larger amount of self-government together with American citizenship was given the Porto Ricans. On the "bone dry" prohibition bill, which prevents the shipment of liquor into a state whose laws forbid its sale, and on the provision for prohibition in the District of Columbia, party alignment was broken, except on the Underwood motion to amend the Sheppard bill so as to allow a referendum to the people of the District. Democrats favored the referendum 26 to 22, while the Republicans opposed it 21 to 17. The vice-president broke the tie by voting against the amendment. After the defeat of the amendment the bill passed 55 to 32.

On December 22 President Wilson addressed to the belligerent nations a peace note, asking that they state the principles for which they were fighting and that they define as far as possible the motives for which they were waging the war. About the time of the transmission of this note there was a drop in certain securities, which led to charges that certain speculators had profited by advance information on the note. This led to the notorious "leak" investigation in which Representative William

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R. Wood of Indiana and Thomas W. Lawson of Boston were prominent. Neither produced any evidence more tangible than a letter by an unknown and unidentified writer, and prattle by an infant, to sustain charges that reflected on the integrity of several members of Mr. Wilson's official family. The investigation, as conducted by the house committee on rules, until the examination of witnesses was turned over to a competent attorney, did a great deal to discredit a congress that had already gone far towards discrediting itself by its vote on the McLemore resolution. After an investigation that bordered closely on vaudeville and that cost the country about $22,000, no evidence was found to support the charges against any official of the government.

On January 22 President Wilson broke another precedent by appearing before the senate and speaking on foreign relations. In this address he outlined certain principles without which no peace could be permanent; and stated the grounds on which the United States might coöperate with other nations, after the war, to bring about a lasting peace. This address met with a very favorable reception in many quarters. The most vigorous criticism of the President's address in this country came from Senator Borah, who saw in it a departure from the policy of Washington's farewell address. On the whole the address met with a hearty response throughout the United States and in other countries.

Germany had now determined to repudiate the pledges she had given the United States in regard to the use of submarines, and declared that on February 1 she would begin to wage an unrestricted campaign against ships entering what she had chosen to define as a war zone. On February 3 the President appeared before a joint session of congress and stated that he had broken off relations with the German empire, and had handed his passports to Ambassador von Bernstorff and had recalled our ambassador to Germany. The senate four days later by a vote of 78 to 5 endorsed the President's action. The senators voting against the endorsement were Gronna, Works, and La Follette, Republicans, and Kirby and Vardaman, Democrats.

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In order to protect our ships from submarine attacks, President Wilson again appeared before congress on February 26 and asked for authority to arm merchant ships. Bills for this purpose were introduced in each house, authorizing defensive armament for our ships and appropriating $100,000,000 for the use of the executive branch of the government for arming, insuring and protecting such vessels. The Flood armed neutrality bill passed the house promptly 403 to 13, 9 Republicans, 3 Democrats, and 1 Socialist voting against it. In the senate the armed neutrality bill was soon blocked. Senator Stone, the Democratic chairman of the senate committee on foreign relations, was entirely out of sympathy with the President's program. Instead of supporting the bill he did all in his power to block its passage, attacking it on the floor after it had been reported. The Republican filibuster that Senators Penrose and Lodge had been leading against the revenue bill for party reasons, and to force the President to call an extra session, soon became a filibuster led by La Follette, Norris, Cummins, and Gronna, Republicans, against the armed neutrality bill. Stone, Kirby, Lane, O'Gorman, and Vardaman, Democrats, and Clapp, Works, and Kenyon, Republicans, joined the movement against the measure; and it was due largely to their efforts that the measure was prevented from coming to a vote. It is only fair to the "Old Guard" Republicans who were filibustering against the revenue bill to state that they dropped their obstructionist tactics when the German plot to involve Mexico and Japan in a war against the United States was made public.

When it became apparent that the filibuster could not be broken, all of the senators who could be reached, except Penrose, La Follette, Norris, Works, Clapp, Gronna, and Cummins, Republicans; and O'Gorman, Kirby, and Vardaman, Democrats, signed a paper, as a matter of record, stating that they favored the passage of the armed neutrality bill and believed the measure would pass if the question could be brought to a vote. Here was the senate's confession to its own impotency under the rule of unlimited debate.

Not only was the armed neutrality bill defeated by this fili-

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buster, but other important bills could not be passed for a lack of time. When the session ended at noon of March 4, President Wilson issued a statement in which he showed the necessity for some change in the senate's rules. After showing the bad effect of the filibuster in the session that had just closed, Mr. Wilson said:

"The Senate of the United States is the only legislative body in the world which cannot act when the majority is ready for action. A little group of willful men, representing no opinion but their own, have rendered the great Government of the United States helpless and contemptible.

"The remedy: There is but one remedy. The only remedy is that the rules of the senate shall be so altered that it can act. The country can be relied upon to draw the moral. I believe that the senate can be relied on to supply the means of action and save the country from disaster."

In less than a week after the close of the session the senate in extra session had adopted a rule limiting debate.

But the price paid for this long overdue reform in the senate's rule is a heavy one, for very important legislation had again been side-tracked. Among the measures which failed to come to a vote were: the Webb bill to allow combinations of capital for foreign trade, the bill to improve and enlarge the interstate commerce commission, the conservation bill, the water power bill; and the appropriations for the army and the military academy at West Point, as well as the sundry civil, and general deficiency bills.

Among the measures passed, other than those commented upon, are: the regular appropriations for the legislative, executive, and judicial branches of government; the pension bill; the Danish West Indies government bill; the lood control bill; and the navy appropriation bill (the largest ever passed for a navy in time of peace), carrying $535,000,000.

During the sixty-fourth congress there were introduced in the house of representatives 21,104 bills, 393 joint resolutions, 79 concurrent resolutions, 556 resolutions and 1,636 reports; and in the senate 8,334 bills, 221 joint resolutious, 34 concurrent reso-

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lutions, 387 resolutions and 1,141 reports. There were enacted by the sixty-fourth congress 384 public and 209 private acts.[3]

When one thinks of the Gore and McLemore resolutions, the peace note "leak," the partisanship, pacifism, and pork of some of its members, and above all the pernicious filibusters in the senate, one is apt to criticize harshly the sixty-fourth congress; but when one remembers its liberality to the navy and some of the many good bills that it enacted into law he is prone to temper his criticism with words of praise. In light of the railroad crisis that again threatened the country so soon after the closing of the session, one cannot but regret that the eight hour law was not supplemented by the other legislation requested by the President.

Taken in the large, congress during the first Wilson administration has enacted legislation of far-reaching importance. One noteworthy result of this legislation has been the establishment of several new administrative boards and commissions. The federal reserve board, the trade commission, the farm loan board and the tariff commission show a distinct tendency to increase the number of governmental agencies with powers somewhat analagous to those of the interstate commerce commission.

[3] These figures were the last available ones when this article was prepared. It is possible that a few documents had not come from the printing office.

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WOMAN SUFFRAGE IN PARLIAMENT

A Test for Cabinet Autocracy

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The woman suffrage movement in Great Britain has rendered a service for political science of which even its adherents are often unaware. It has brought to a most searching test the prevailing constitutional theory.

In these days of psycho-analysis of the individual there should be also some psycho-analysis of political institutions. Political theory, like the pious formulas with which we drape the nudity of our real desires and aspirations, is often at bottom what might be called a highly intellectualized excuse. Political theory is an afterthought: a justification or explanation of the desires and aspirations of the dominant economic and social group. The "divine right of kings" is now a hollow pretension to us. But it was as much a reality to the aristocracy, whose power is explained and excused, as are our own instinctive personal excuses. The "natural rights of man" have proven hardly more substantial,—the great excuse in which the rising commercial classes have ever covered their designs against the aristocracy. And now, at last, in the theory that "labor creates all wealth," we find the embryo excuse for a growing threat of the working class.

Of course in all these cases it is not the excuse that is of interest to the political scientists as much as it is the facts which occasion it. The man who goes through life thinking that explanations are the real stuff of things is skating on thin ice indeed. And so, likewise, is the student of politics who takes with equal seriousness the prevailing constitutional theory.

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Now there are two such theories in regard to governmental supremacy in books on English constitutional law. The one, to which only the characteristic English reverence for age is now attached, is that the king is the source of all law and authority: parliament merely an advisory council. All statutes passed by parliament today render lip service to this ancient tradition. They begin: "Be it enacted by the king's [or queen's] most excellent majesty by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows."

The other theory is that the house of commons is the supreme governing body of the empire. The one is the historic excuse of hereditary aristocracy; the other is the explanation of the commercial class for its later domination. Most people recognize that the first is a hollow phrase, but the second is continually extolled as a noble reality.

"The sovereignty of Parliament," says Dicey, "is . . . . the dominant characteristic of our political institutions."[1] James Bryce writes, "The British House of Commons has grown to the stature of a supreme executive as well as legislative council, acting not only by its properly legislative power, but through its right to displace ministers by a resolution of want of confidence, and to compel the sovereign to employ such servants as it approves."[2] Professor Slater has phrased the theory even better: "In theory the Government of England needs only the last steps toward adult suffrage, with single voting and equal electoral districts, should be taken in order for it to become perfectly democratic. The Representative Chamber is now supreme; the candidates expound their political views to the electors, and the electors select the candidate whose opinions and motives with regard to legislation and administration are most in accord with their own. The majority in the electorate thus is represented by the majority in the House of Commons, and the leaders of the latter majority form the Cabinet. Each Cabinet minister is subject to the control of the House of Com-

[1] A. V. Dicey, *Lectures on the Law and the Constitution*, p. 35.
[2] Bryce, *American Commonwealth* (1910), vol. 1, p. 286.

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mons, which can question him as to the conduct of his department, censure him, reduce his salary, and, in the last resort, impeach him. The whole Cabinet is again collectively responsible to the people's representatives. While they thus indirectly control administration, they directly control legislation."[3]

Perhaps the most extreme and at the same time concise statement of this theory was made by the Duke of Devonshire on September 5, 1893, in a speech delivered in the house of lords during the debates on the second home rule bill. He said: "In the United Kingdom Parliament is supreme not only in its legislative but in its executive functions. Parliament makes and unmakes our ministries, it revises their actions. Ministries may make peace and war, but they do so at pain of instant dismissal by Parliament from office; and in affairs of internal administration the power of Parliament is equally direct. It can dismiss a ministry if it is too extravagant or too economical; it can dismiss a ministry because its government is too stringent or too lax. It does actually and practically in every way directly govern England, Scotland and Ireland."[4]

The supremacy of a governing body implies two things: first, that no higher political power can override its acts; and second, that it is free to act as it wills. That the house of commons meets the first implication of supremacy no one today denies. But the purpose of this paper is to show that it may not meet the second.

It is a well-known method of the psycho-analyst to determine the patient's real characteristics of mind by an elaborate system of catching him off his guard—in dreams, in the little inadvertencies of life, in his slips of tongue or pen. It is well, likewise, for the political analyst to catch the particular institution he is studying, so to speak, off its guard. If he wants to uncover realities from the decorative dross of pompous declamation he must watch the subject in its daily workings—not as reflected in the studied excuses of academic apologists. The best training for the political scientist is campaigning for a popular cause

[3] Slater, *The Making of Modern England* (Revised Ed.), pp. 281–282.
[4] Quoted in Low, *The Governance of England*, pp. 57-58.

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that is distasteful to the powers-that-be. In the dust of such a battle much is revealed. Declamation ceases where practical politics begin.

"Votes for Women" caught the parliamentary system off its guard. The revelation which followed was damaging to the theory of parliamentary supremacy. It raised the issue, at least, of cabinet autocracy.

The question for us, then, is: does the commons control the cabinet, as we are told by the constitutional theorists; or does the cabinet control the commons and, through it, reign supreme?[5]

A review of the Votes for Women movement in parliament presents as strong a line of evidence in the case as could be garnered from any one source. It is claimed by suffrage supporters that there has been a clear majority of the members of the house of commons in favor of women's suffrage since 1886. There is no data at hand that will stand the test of nonpartisan reliability to prove this contention. But we have an astonishing story of persistent and continuing efforts to pass suffrage bills spread on the records of the house of commons from the year 1866 to the opening days of the great war—a story which goes far in that direction. That these efforts resulted, as early as 1897, in the conversion of at least one-third of the total membership of the house to suffrage is attested by the passage of an enfranchisement bill on its second reading in that year by a vote of 228 to 157.[6]

[5] I do not discuss the house of lords in connection with either the broad problem of cabinet autocracy or its by-product in the history of the suffrage movement, because with two unimportant exceptions all suffrage activity has been confined to the lower house, and because under the new status of the upper house it could not block a public bill passed by three successive sessions of commons during a period of two years.

[6] The steps in the passage of a bill through the house of commons are as follows: (1) Introduction and first reading. This is usually a mere formality; the title only is read and it is rarely even put to vote. (2) Second reading. This takes place after a debate on the principle and general terms of the bill and a vote as to whether it shall be so read. (3) Committee stage. A bill passed on its second reading goes to either a standing committee or a special committee, or to the whole membership sitting as a committee of the whole for detailed consideration and amendment. (4) Report. The bill so amended is reported to the house and debated in detail. (5) Third reading. This final stage is similar to the second reading.

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In 1906 a clear majority of the party in power, to whom the government of the day is supposed by the theory of parliamentary supremacy to be responsible, went on record in favor of suffrage. In 1910 the officially recorded proportion of supporters was raised to within 36 of one-half the total membership of 670, and that on a day when 181 members were absent—a majority of 109, which was greater than the government could obtain in the passage of those measures to which it was definitely committed.[7] As early as 1906 Mr. Keir Hardie declared without contradiction on the floor of the house that no less than 420 members were definitely pledged to vote for suffrage.[8] A suffrage bill was passed through two readings as far back as 1870; and since that time no less than six more bills have been similarly passed, some with overwhelming majorities. Yet no cabinet has agreed to make of one a government measure;[9] there has never been an opportunity even to register a vote on a final reading; and no bill has been made into the law of the land.[10]

In other words, there has been on the one side a rising tide of suffrage sentiment that has in thirty years swept with it what is perhaps a clear majority of the house, and at least a clear majority of the party in power, and on the other a cabinet which, unlike Canute of old, has rolled back the tidal wave. It was no

[7] It might be claimed that all the absentees opposed suffrage and yet did not want to incur the enmity of the suffragist forces by voting against it. While this is no doubt true in some cases, an investigation of the number of absentees on days when the most important bills of the session were given a second reading discloses at least 100 absent—only 81 less than the absentees at the suffrage bill vote. (See Whitaker's *Almanack*, 1911, pp. 155–159.) It is altogether probable that among the number were more than a few supporters of the measure.

[8] 164 *Parliamentary Debates* (4th series) 572.

[9] A government measure is a bill proposed by a member of the cabinet and backed in its passage by the cabinet's power.

[10] It may be claimed that the affirmative vote on a suffrage bill is not an accurate test of suffrage sentiment because some opponents of the cause might vote in favor of the measure to gain in popularity, knowing that the bill would be finally blocked by the cabinet. This claim has no positive evidence that I have discovered to support it. At all events it is impossible, in a survey of legislative votes, to delve into the field of the members' motives. Such a procedure must, in the nature of things, be largely conjecture.

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such breakwater against the sentiment of the house that the Duke of Devonshire pictured in his speech on the home rule bill, or that Bryce and Dicey describe in their theory of the English constitution. The cabinet to them was rather a water-wheel, sensitive to the ebb and flow of parliamentary discussion and opinion, grinding out the executive and legislative policy of the English nation. In fact, the record of suffrage discloses the outlines of a body more subtle, more mobile, more intelligent, than a breakwater, though perhaps none the less resistless: an almost perfect and dominating political machine.

The history of the woman suffrage movement in parliament, then, reveals the inadequacy of the common constitutional theory. But it does more: it throws a flood of light on the daily operations of the machine that bids fair to be the theory's undoing. The cabinet opposition to suffrage has required the expert manipulation of a complicated political engine. It has left no time for the tenuous explanations of constitutional theory. Let us then study the actual mechanism at hand and go to the school of practical political engineering for our principles of political science.

The fire of women's rights, kindled by Mary Wollstonecraft in the closing days of the eighteenth century, fanned by the work of women in the anti-corn law agitation of the forties, and heightened by Florence Nightingale's inspiring service in the Crimean war, was, by 1865, all but beyond the control of its self-appointed masculine wardens. In 1866 we find the first record of political pressure in parliament in favor of parliamentary votes for women.[11] It is altogether fitting that the father of the votes for women struggle in parliament should have been that incarnate spirit of candor and understanding, the leading political scientist of the day—John Stuart Mill. On the 7th of June, 1866, Mill, who had been elected to parliament in 1865, rose in his place in the house and presented the first suffrage

[11] The suffrage movement has been entirely directed to gaining votes for members of parliament. Women were given the same right to vote as men (except during the life of their husbands) in municipal elections by the municipal corporations act (13 and 14 Vic., Ch. 21.) of 1869.

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petition. It was signed by 1499 names which had been all collected in a fortnight.[12] Petitions were formerly read and given considerable attention in the house, although they are now merely filed with the clerk as a matter of routine. Mill's petition, however, even at that time was taken by those chivalrous men of the world, his colleagues, in a spirit of condescending good-humor. Its practical effect on the house was nil—which, of course, but increased the unrest of women.

In 1867 an amendment was introduced to the government's reform bill in favor of women's suffrage—the first record of actual legislation attempted in the cause. The measure was defeated, of course; but by a vote of 196 to 73. The minority vote showed a surprisingly large section of the house in favor of suffrage and led to renewed activity on the part of its supporters.[13]

The flames of discontent, however, were soon to be fanned to greater fury. The act of 1867 extended the suffrage to any "man" (instead of "male person," as in the law of 1832) who fulfilled certain property requirements.[14] Considering themselves part of the race of man and basing their contention on a law that "in all acts words importing masculine gender shall be deemed to include females,"[15] no less than 5346 women in Manchester, 1341 in Salford, 239 in Edinburgh and hundreds more in other cities, secured a place for their names on the registers by the election officers' consent and proceeded to cast their votes in the following election. But in the famous case of Chorlton v. Lings this unseemly conduct was given a severe judicial reproof. All the votes were thrown out and the word "man" held to have an exclusively masculine connotation.[16]

From 1867 to 1913 the suffrage question has been before every parliament that has sat at Westminster, and with one exception (1880) there has been a determined effort made to bring a vote

[12] Blackburn, *Record of Women's Suffrage*, pp. 53-56.

[13] 187 Hansard's *Parliamentary Debates* (3d series), 817–845; Blackburn, op. cit., pp. 61–63.

[14] Lowell, *Government of England*, vol. 1, p. 207.

[15] 13 and 14 Vic., Ch. 21.

[16] Blackburn, op. cit., pp. 73–88.

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at each year's session. The details of this struggle between cabinet and commons would fill a volume. Only an outline can be given here.

PARLIAMENT OF 1869

The parliament of 1869 had a Liberal majority and Mr. Gladstone was, for the first time, prime minister.

The year 1870 marks the introduction of the first women's suffrage bill. Drafted by Dr. Pankhurst (later to become the husband of Mrs. Emmeline Pankhurst), the bill reached its second reading on the 4th of May. Gladstone, who was strongly opposed to the whole movement, anticipated no show of strength in its favor and exerted no pressure against it. To his astonishment, however, the bill was carried by the overwhelming majority of 124 to 91.[17] The government at once asked for a delay and eight days later it came up before the house sitting as a committee of the whole. Meanwhile the cabinet had brought all the pressure at its command to bear on members of the majority to vote against it. A motion was at once made to table the bill indefinitely. When the motion came to a vote it was carried 220 to 94.[18]

In those eight days approximately 99 members who did not consider it worth their while to be present at the earlier second reading were on hand to vote against the bill, and 30 members thought better of their position and voted down their original conviction.

In 1871, 1872 and 1873 suffrage bills were introduced. In 1871 a motion to read a second time was defeated by 220 to 151; in 1872 the bill was rejected at the second reading 222 to 142; and in 1873 likewise by 222 to 155:[19] The figures indicate that since 1870 the party majority had remained intact, under continuing cabinet pressure, while the adherents of the bill increased by some 50 members.

[17] 201 Hansard's *Parliamentary Debates* (3d series), 194–240.

[18] 201 Hansard, op. cit., 607–622; Blackburn, op. cit., pp. 106–107.

[19] For 1871, 206 Hansard, op. cit., 68–123; for 1872, 211 ibid., 1–71; for 1873, 215, ibid., 1194–1258. Also Blackburn, op. cit., pp. 117–124.

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PARLIAMENT OF 1874

In the Conservative parliament of 1874 Disraeli was prime minister. Although he had in 1873 announced himself as in favor of women's suffrage,[20] he failed to make it a government measure. Evidently the cabinet was too much divided on the matter for him to be willing to risk his ministry by forcing an introduction in that way. At all events, in 1874 the pressure of government business was too great to reserve a day;[21] in 1875 the bill was rejected by 187 to 152; in 1876, after an impassioned speech by John Bright against its adoption, it was again defeated, 236 to 152; in 1877 there was such an uproar in the opposition as to drown out every speaker in favor of the bill and it was not allowed to come to vote before the end of the time allotted for its discussion; in 1878 there was a division upon introduction which threw it out by 220 to 140, after a systematic canvass by a committee of those opposed to the measure; and in 1879 a resolution in favor was proposed, but rejected by a vote of 217 to 103.[22] By the close of the session, however, no less than 1273 petitions with 415,622 signatures had been sent up in favor of suffrage.[23]

PARLIAMENT OF 1880

The parliament of 1880 was Liberal, and Gladstone became prime minister for the second time. In 1880, for tactical reasons no women's suffrage bill was introduced. The following year the day on which a resolution was set down was taken by the government; and in 1882 the resolution stood first, but the committee on the arrears of rent bill continued past midnight and it had to be withdrawn.[24] In 1883 Mr. Hugh Mason, spon-

[20] Blackburn, op. cit., p. 124.

[21] Blackburn, op. cit., p. 139. Certain days are set aside for private members—i.e., members of the house who are not acting for the cabinet—to introduce their measures. The rest of the time is given over exclusively to government business.

[22] For 1875, 223 Hansard, op. cit., 418–457; for 1876, 228 ibid., 1658–1744; for 1877, 234 ibid., 1362–1415; for 1878, 240 ibid., 1800–1874. Also, and for 1879, Blackburn, op. cit., pp. 140–146, and chart opposite p. 117.

[23] Blackburn, op. cit., p. 139, quoting *Women's Suffrage Journal*, 1875, p. 122.

[24] Ibid., chart opposite p. 101.

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sor for the bill, after prolonged efforts, secured a day from the government for a debate on his resolution, and a division showed 130 against and 114 for the measure.[25]

By far the most important event of this parliament, however, was the reform bill of 1884, aimed to enfranchise the agricultural laborers—a measure sponsored by the cabinet. On the first of May the bill, having passed second reading, went into the committee of the whole. At this point Mr. Woodall gave notice to add an amendment to the effect that "the words in the representation of the people act importing the masculine gender include women." This was the signal for the "steam roller." In a letter to Mr. Woodall the prime minister wrote an eloquent exposé of its operation: " . . . the question with what subjects, viewing the actual state of business and parties, we can afford to deal in and by the Franchise Bill is a question in regard to which the undivided responsibility rests with the government, and cannot be devolved by them upon any section, however respected, of the House of Commons." What followed was enlightening. "Liberal members known to be favorable . . . . were informed through the usual channels for conveying the mind of the government that they were not to be free to exercise their judgment, nor to vote according to their honest convictions."[26] On June 10 Mr. Woodall moved his amendment and Mr. Gladstone drove the roller to the last by speaking personally for the government in opposition. He said: "I must disclaim and renounce all responsibility for the measure [the whole franchise bill] should my honorable friend succeed in inducing the committee to adopt the amendment." This disclaimer, of course, was rhetoric. The machine was in perfect order and it rolled over Mr. Woodall and his followers by 271 to 135. "Among the 271 were 104 Liberals who were pledged supporters of women's suffrage."[27] The *Women's Suffrage Journal*, issued the following month,

[25] 281 Hansard, op. cit., 664–724; Blackburn, op. cit.

[26] Ibid., pp. 162–163.

[27] 288 Hansard, op. cit., 1942–1964; 289 ibid., 91–207; Blackburn, op. cit., pp. 164–165; Fawcett, *Women's Suffrage*, p. 28.

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printed this telling analysis: "If these 104 members had voted according to their previous wont and their avowed convictions, they would have been deducted from the 271 who voted against the clause—leaving 167 opponents—and added to the 135 supporters would have raised the vote in favor of the clause to 239. We may therefore assume that had the question been an open one . . . the clause would have been carried by a majority of 72."[28]

Another bill was introduced in the autumn session after a division showing 29 ayes and 8 noes, but the second reading never took place. The next year it was the same story. The bill was set down for March 4, was adjourned to June 24, and so on out of existence.[29]

PARLIAMENT OF 1885

In the parliament of 1885 the suffragists claim that there were 314 known friends and 104 opponents of suffrage returned to the house, and again on January 27, 1886, a bill was introduced. The early closing of the debate on the address from the throne on the 18th of February gave Mr. Courtney, its sponsor, an opportunity to press a second reading. A motion to adjourn was immediately made but defeated 142 to 137. Then a motion to adjourn the bill was thrown out 149 to 102—and it passed the second reading without a division.[30] For the second time the house had gone on record, when not under pressure from the cabinet, as in favor of suffrage. But the steam roller was still at work. The government gave no further opportunity for the bill to come to third reading before a general election in the summer brought parliament to a close.[31]

It is claimed that from that day to this a majority of the members of the house have been supporters of women's suffrage.[32]

[28] *Women's Suffrage Journal*, July, 1884.

[29] Blackburn, op. cit., chart opposite p. 168.

[30] 302 Hansard, op. cit., 689–702. As by these two ballots the sentiment of the house was clearly shown in regard to the bill, no member demanded a vote as to whether it should be read a second time.

[31] Blackburn, op. cit., p. 169, and chart opposite p. 168.

[32] Fawcett, op. cit., p. 85.

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PARLIAMENT OF 1886

Under the leadership of Lord Salisbury this Conservative parliament, which lasted six years, included, according to Blackburn, 243 known supporters of suffrage. In 1887 a bill was set down for a day that was later taken by the government. In 1888 the two bills that were introduced went to pieces on the rock of house rules—a new regulation that bills that were introduced and passed their second reading before Whitsuntide have preference on private members days thereafter. In 1889 April 17 was the day set, but the house rose for the Easter recess on the previous day. In 1890 a second place was secured on the calendar on March 4 for a resolution; but it was adjourned to April 29 "when a measure of Mr. Provan's for raisins and currants was made the means of crowding it out." Resolutions were also set down for June 3 and 6, but government business forced them to lie unconsidered.[33] The following year Mr. Woodall secured the best available day, May 13;[34] but on April 30 Mr. Smith, first lord of the treasury, moved that certain specified dates of private members be taken for government business. Mr. Gladstone, then leader of the opposition, with a logic all too strained, insisted that Mr. Smith "take all Wednesdays or none" (May 13 was on a Wednesday), and again the bill was crowded out—by clear design.[35] In 1892, in spite of efforts of the opposition to the bill to prolong the Easter recess beyond the day set for its consideration, it came to a debate and division. The weight of Mr. Gladstone's potential power[36] and an opposition whip[37] by members from both sides of the house swung the balance against the bill and it was lost 152 to 175.[38]

[33] Blackburn, op. cit., chart opposite p. 168.

[34] So many private members wish to bring in measures in the short time allowed them that they have had recourse to a "ballot" at the beginning of each session by which they drew the available days by lot.

[35] 352 Hansard, op. cit., 1775–1799; Blackburn, op. cit., p. 191.

[36] Mr. Gladstone, as leader of the opposition, would naturally be the next prime minister.

[37] A whip in this sense of the word is a notice signed by influential members of the house to other members to appear in the house at a certain time and vote for or against a certain measure.

[38] 3 Parl. Deb. (4th series), 1453–1530; Blackburn, op. cit., p. 195; Fawcett, op. cit., p. 33.

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PARLIAMENT OF 1892

Although bills were introduced by private members at each of the three sessions of the parliament of 1892, not one was allowed to come to a division. In 1893 the measure was crowded out by the rating of machinery bill; in 1894 the only chance that offered was as an instruction[39] to the government's registration bill, which never reached committee stage; and in 1895 a resolution was set down for a date that afterwards proved to be hopeless.[40]

PARLIAMENT OF 1896

The parliament of 1896 was Conservative, with Lord Salisbury again prime minister. Mr. Begg introduced a bill in 1896 and secured May 20 for a second reading, but all dates were absorbed by the government and it was lost. The following year Mr. Begg again drew the best date[41] and for the third time the house passed the bill on the second reading—228 to 157. Those who voted in favor, it is most significant to note, formed a majority of the voting members of each party in the house, and 109 supporters were absent.[42] But the opposition again manipulated the rules of the house to crowd the bill out. It was set down for the committee stage June 23, but this date was absorbed by the queen's jubilee celebration and it stood over to the last day open for private members' bills—July 7. The Whitsuntide rule required the discussion of two other bills first—one of them dealing with the problem of the cleansing of "verminous persons." This was deliberately extended for hours to the closing time and the overwhelming majority of the house in favor of suffrage was again thwarted.[43]

[39] An instruction is a direction by the house to the committee in charge of a bill to add certain provisions.

[40] Blackburn, op. cit., chart opposite p. 168. Also pp. 201-203.

[41] Members had by this time begun the custom of syndicating their ballots. All the members in favor of the bill would ballot for a day and the one securing the best place would put it down for that date.

[42] 45 Parl. Deb., op. cit., 1173-1239; Blackburn, op. cit., p. 210; Fawcett, op. cit., p. 34.

[43] 50 Parl. Deb., op. cit., 1298-1331; Blackburn, op. cit., p. 213.

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In 1898 the suffrage bill was crowded out, and in 1899 and 1900 the days on which resolutions were set down were taken by the government.[44]

PARLIAMENT OF 1900

In 1901 no day was obtained for the bill but a resolution was set down for the 19th of March. This day was later taken by the government.[45] In 1902 a bill was introduced, but for some reason withdrawn before the second reading. The following year a bill was introduced but no day was secured for second reading. In 1904 came the first opportunity for a debate. The occasion was a resolution made in the evening sitting of March 16 by Sir Charles McLaren. Again, and in unmistakable terms, 182 to 68, the house went on record in favor of suffrage.[46] Relying on this approval the suffrage workers persuaded Mr. Slack in 1905 to use his place on the ballot for a second reading of the bill. It was set down for the 12th of May. The vehicles' lights bill had precedence according to the rules of the house, however, and the opposition succeeded in squeezing the suffrage measure out between much irresponsible talk and the closing hour. It did not even come to vote.[47]

PARLIAMENT OF 1906

There is a strong color of evidence to show that in the parliament of 1906 a clear majority of the membership was pledged to vote for suffrage. On the 7th of November Mr. Keir Hardie rose in the house and asked leave to bring in a woman suffrage bill. He stated that "in the present Parliament there were 420 (out of 670) members who were pledged to vote for the political enfranchisement of women," and that "the refusal of the government to deal with the question during the life of the

[44] Blackburn, op. cit., chart opposite p. 168.

[45] Ibid.

[46] For 1902, 111 Parl. Deb., op. cit., 1327; for 1903, 120 ibid., 181; for 1904, 131 ibid., 1331–1367.

[47] E. S. Pankhurst, *The Suffragette*, pp. 12–15; E. Pankhurst, *My Own Story*, pp. 41-43; 146 Parl. Deb., op. cit., 218–235.

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present Parliament" had led to "agitation as a protest against the fact that 420 members were unable to move the government." In his reply on behalf of the government the prime minister, Mr. Campbell-Bannerman, made no effort whatever to deny Mr. Keir Hardie's figures. He merely explained that the government would offer the desired facilities in the next session.[48]

The suffrage supporters were now bent on persuading the cabinet to foster the measure. To that end Mr. Keir Hardie sought to test the suffrage sentiment by a resolution. He secured second place on April 25, 1906. The supporters of the preceding resolution had agreed to withdraw it early and Mr. Hardie's came on for debate. Mr. Herbert Gladstone said, for the government, that they would leave the house free to express an opinion in the matter. But the opposition talked the resolution out again—this time amid great disturbance and objection from the ladies' gallery—and it never came to vote.[49]

Shortly after this the prime minister received a deputation of suffragettes and declared personally in favor of the movement, but said he could not commit the government because some members of the cabinet were opposed.[50] In spite of this setback, however, Mr. Keir Hardie introduced a bill under the ten minutes rule on November 7. The prime minister said that "there would be no opportunity during this session of dealing with the question," and the measure never got further.[51] Again on November 29 an attempt was made by Lord Robert Cecil to amend the government's bill for the abolition of plural voting, by postponing its effect until the next election unless the franchise was granted to women in the meanwhile. The government, through Mr. Asquith, opposed the measure, and the machine, following his control, rolled it out 278 to 50.[52]

[48] 164 Parl. Deb., op. cit., 572.

[49] 155 Parl. Deb., op. cit., 1570–1587; Pankhurst, *The Suffragette*, pp. 67–70. The militant suffrage organization, the Women's Social and Political Union, had just been formed (1903) with the express purpose of using the same methods to obtain the vote for women that men had previously used to gain extensions of the franchise among themselves.

[50] E. Pankhurst, op. cit., p. 65; E. S. Pankhurst, op. cit., pp. 76–77.

[51] 164 Parl. Deb., op. cit., 571-573; E. S. Pankhurst, op. cit., p. 127.

[52] 165 Parl. Deb., op. cit., 1491-1502; E. S. Pankhurst, op. cit., p. 129.

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The next year's session, 1907, opened most favorably for the suffragists. For the first time in the history of the movement a member, Mr. Dickinson, secured the coveted first place out of 670 on the ballot, who was willing to use it for a suffrage bill; and the measure thus gained more of a chance than any other private member's bill to become law. The prime minister, it is asserted, had even promised to support it in the house,[53] but when it came on for debate, March 8, he said that "while he was in favor of the general principle of the inclusion of women" that this particular bill "had not met his view of the case." He did say, however, that this was "one of the not infrequent occasions when it is the duty of the government . . . to leave the decision of the question before it to the house"[54] a most enlightening remark in the face of parliamentary "supremacy." But the opposition, ably supported by the speaker of the house, who no less than three times denied a motion to put the question, then proceeded to talk the bill out in a five hours' "debate." The house adjourned without a vote. The government later refused to give another day for the discussion of the bill and Mr. Dickinson withdrew it to make way for a suffrage resolution by Sir Charles McLaren. "Taking advantage of a rule of the house by which a resolution cannot be proceeded with if a bill dealing with the same subject has been introduced," a well-known anti-suffragist, Mr. Levy, "now brought forward a bill which he never intended to be discussed to give the vote to every adult man and woman."[55] This move effectually killed the resolution and any further expression of the will of possibly 420 out of 670 members of the sovereign house.

In 1908 Mr. Stranger secured a good place in the balloting for the bill and it came on for second reading on February 28. The prime minister had, on the 20th, refused to suspend the five o'clock rule to allow for more discussion of the bill;[56] but

[53] E. S. Pankhurst, op. cit., pp. 147, 150.

[54] 170 Parl. Deb., op. cit., 1109–1111.

[55] Ibid., 1102–1163; Fawcett, op. cit., pp. 69–70; E. S. Pankhurst, op. cit., pp. 150–151.

[56] 184 Parl. Deb., op. cit., 981–982. Private members' time extends only to 5.30 p.m.

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although Mr. Rhees, an opponent, tried to talk it out, the speaker of the house accepted a motion for closing the debate and the house divided. For the fourth time the bill for suffrage was approved on a vote of record in the house—this time by the overwhelming vote of 271 to 92. Mr. Herbert Gladstone in supporting the bill personally had thrown a side-light on the workings of the house by stating that "argument alone is not enough to win the political day."[57] He might also have added: "Nor is it enough to win a large majority of the party in power—the party that represents the public will and the desires of the house in legislation and administration." Out of 374 Liberal members who composed the government majority at the time no less than 218 voted in favor of the bill—31 more than a clear majority of the party in the house. The vote stood: Ayes—Liberals, 218; Conservatives, 32; Nationalists, 21; Noes—Liberals, 53; Conservatives, 27; Nationalists, 12.[58] If the cabinet is, in fact, a sort of executive committee under the direction and control of the majority party in the house, it would hardly seem possible for it to ignore the wishes of so large a majority of its own members. But the cabinet did so ignore them. Mr. Gladstone had stated, as spokesman for the government, that they would leave the house free to decide the question for itself. Subsequent developments, however, were an ironical commentary on this promise of the government.

As the speaker had recognized the closure resolution only on condition that the bill be referred to the committee of the whole instead of to a standing committee, its fate lay in the hands of the government. But the house, having decided the wrong way for itself (when it made little difference), was not allowed to do so again—when it would be really effective. The bill never even came before the committee. Before the session was over, Campbell-Bannerman resigned because of ill-health; and Mr. Asquith, who succeeded him, also refused to give any fur-

[57] 185 Parl. Deb., op. cit., 211-287; E. S. Pankhurst, op. cit., 204-207.

[58] Annual Register, 1908, p. 48; Whitaker's *Almanack*, 1909, p. 155 (Strength of Parties).

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ther chance for the measure. Mr. Asquith has always been an ardent foe of suffrage on principle.[59]

Again in 1909 the same farce was enacted, this time in the hope that another vote would bring pressure on the government to include a suffrage clause in the forthcoming franchise reform bill which had been promised by the prime minister. Mr. Howard introduced a new bill along universal suffrage lines. It was thoroughly debated on March 19 and came to a vote. The prime minister, speaking officially against it, declared that "any measure of this kind ought, in my opinion, . . . to proceed from the responsible government of the day." But in spite of this steam roller operation the measure passed with a vote of 157 to 122. Again it was rejected by the automatic device of no further time allowed.[60]

PARLIAMENT OF JANUARY, 1910

In 1910 a "conciliation" committee of suffrage members of parliament was formed to draft a bill that would be agreeable to all factions and both parties, and the militants, who had begun their campaign of "direct action," called a truce pending the fate of the measure. A bill was drawn along the lines of the municipal household franchise with no disqualification for marriage, and for the first time in history the government officially set aside two days for debate. They did not, however, make it a government measure. The debate was thorough; no less than thirty-nine speeches were made pro and con during the allotted two days. When a division was finally reached the house again for the sixth time recorded itself in favor of suffrage, and this time by a majority of 109—more than the government could command for their chief measures. The vote stood 299 to 190.[61] Then came a division on the question of reference to a standing committee or committee of the whole. The prime

[59] E. S. Pankhurst, op. cit., pp. 207, 222–223.

[60] 2 Parl. Deb. (5th series) 1360–1434; E. S. Pankhurst, op. cit., 364–366; Fawcett, op. cit., pp. 70–71.

[61] 19 Parl. Deb., op. cit., 41–150 and 207–333; Fawcett, op. cit., pp. 73–78; E. S. Pankhurst, op. cit., pp. 488–494.

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minister, Mr. Asquith, had made a vigorous attack not only on the principle but also on this particular suffrage bill and had urged that at least it be committed to the whole house. "The anti-suffragists, in the hope of shelving the bill, and those who genuinely believed that so important a measure should be considered by the whole house in each of its stages, combined to carry this motion by 320 to 175."[62] Again the government refused to give further time for consideration of the bill and again the overwhelming sentiment of the house was directly and openly flouted by the cabinet. But stranger even than this was the vote of the house on November 18 following, which in effect added its stamp of approval to this high-handed proceeding against itself. The prime minister had moved that the remaining days of the session be given over exclusively to government business. Viscount Castlereagh then proposed an amendment excepting time for further discussion of the suffrage bill. Because it would mean a vote of censure on the government, however, the pressure on the members was so great that they refused to give time to themselves to carry out their own wishes by a vote of 199 to 52.[63] The parliament closed with a promise by Mr. Asquith of facilities in the next house, if he were returned, for a suffrage bill framed to admit of free amendment.

PARLIAMENT OF DECEMBER, 1910

The conciliation committee was again formed when the next parliament opened in 1911 with Mr. Asquith again in power. Its members drew first, second and third places in the ballot, which again gave the bill the best chance of any private member's measure to pass. It came on for second reading, framed to admit of free amendment, on May 5. For the seventh time it passed and registered the most sweeping victory yet won. The vote stood 255 to 88. There were also 55 pairs,[64] but those wishing to pair in favor were so many that the demand could

[62] E. S. Pankhurst, op. cit., p. 499.

[63] 20 Parl. Deb., op. cit., 82–148; E. S. Pankhurst, op. cit., pp. 502–503.

[64] Members who cannot be present at a vote cancel their votes off with other members who cannot be present but who would vote the other way.

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not be satisfied. Adding the pairs and those who wished to pair but could not, the strength in favor of the bill was 316 to 143 opposed. But for the seventh time the unmistakable desires of a large section of the house were ignored and no further time was granted for the bill's consideration.[65] Mr. Asquith, however, did announce on the floor of the house that his promise of the preceding year would be fulfilled during the session of 1912. This was followed by a statement on November 7 that the government would introduce a franchise reform bill in 1912 based on "citizenship," but made no mention of women except to promise facilities for the conciliation bill. Some ten days later he admitted that he was in the minority in the cabinet in his opposition to women's suffrage, and said that although he could not initiate a bill to that end he was prepared to bow to the judgment of the house.[66]

Had Mr. Asquith been a prophet he could not have foretold more accurately how this sparring for time would work into his own hands and that of the minority. It is a general rule of political development that when a large section of a community cannot secure from the government by peaceful and constitutional means what they believe to be their rights they will inevitably resort to the only method left—revolution. The United States as an independent nation, to take the most obvious example, is dedicated to the truth of this proposition. Practically every extension of manhood suffrage in England and the Continent has piled up its proof. The women of England were no exception. Outbreaks of violence, begun again by the militants after the failure of the bill of the previous year, culminated during the early days of March in "outrages" of every conceivable kind committed in all parts of the country.[67]

It was under these auspices that the suffrage bill of 1912 came to its second reading in the house on March 28. Time and the law of revolution had come to play partners with Mr. Asquith.

[65] 25 Parl. Deb., op. cit., 738–810; E. S. Pankhurst, op. cit., p. 504; Fawcett, op. cit., pp. 77–78.

[66] Fawcett, op. cit., pp. 78–80.

[67] Militant tactics used from the formation of the W. S. P. U. (1903) to 1910 caused no setback in the progress of suffrage bills in the house; their effect was probably the other way.

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There was an extended debate. The supporters of the bill were obliged to take from the outset an apologetic attitude for the militants, and Mr. Asquith, claiming to speak only as an individual, strongly opposed not only the theory of suffrage but the particular bill before the house. The result was all that he might have foretold. The division came at eleven o'clock after seven hours' debate, and the vote showed him victor. The second reading was, by the bare majority of 14 (222 to 208), put off to "this day six months"—i.e., off the calendar of the house altogether.[68]

At the next session of parliament (1913) the government introduced its long-expected franchise and registration bill. It did not, of course, carry any provision for women's suffrage; but Mr. Asquith, true to his former pledge that adequate amendment facilities would be given in that direction, had three days of the committee stage set aside for that purpose. Three such amendments were introduced involving three different franchises.[69]

When the day (January 27) opened for their consideration, the prime minister arose and asked the speaker whether any or all of them would change the character of the bill. To this the chair replied that all would so change its character as to constitute a new bill. The government was then in this dilemma: they might either press the bill as it was, or introduce a new one with a suffrage provision. But they could not do the latter because Mr. Asquith would not consent to father a suffrage measure; and, on the other hand, if they pressed the bill they would violate their pledges to the suffragists. There was but one way out, and not a bad one, from the prime minister's point of view. Mr. Asquith, claiming that he had had no intimation that the speaker would rule as he did, moved on behalf of the government that the whole bill be withdrawn. The machine rolled after him 283 to 112, and suffrage was again and for the last time until the present thrown out of court.[70] The great war then intervened in behalf of the prime minister and the antis.

[68] 36 Parl. Deb., op. cit., 615–732; Brittanica Year Book, 1912, p. 88.
[69] International Year Book, 1913, p. 319.
[70] 47 Parl. Deb., op. cit., 1019–1092.

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All the evidence in the case is now in. A review of the record will disclose first that individual members of the house of commons, even though they include a large majority of the party in power as well as a voting majority on the opposition benches, cannot make over their convictions into the law of the land in the face of cabinet opposition. There is some evidence to indicate that a majority of the entire membership of the house is equally powerless. The record also shows the convictions of a majority of voting members were blocked from effective expression no less than seven times. It further reveals twenty instances where what may have been a majority of the members were not allowed to register their convictions even on a second reading.

The data discloses, finally, the various uses to which the legislative machine can be directed in opposition to house sentiment by its cabinet-engineers.

There is first the direct cabinet pressure on the members of the house. Any legislative body of more than a handful of members requires some kind of machine to make it effective. If the 670 members of the house gathered together without rules, without leaders and without party groups, little or no legislation would be forthcoming. The session would be a bedlam of enthusiasm, desires and debates, unorganized, utterly at odds and entirely ineffectual. Furthermore, during the past century the business of legislating which the house must perform has increased by leaps and bounds. If its mere size required a highly organized machine in 1815, this enormous increase in business has made it ten-fold more essential in 1915. The result of this pressure of circumstances, aided and abetted by the leaders' human craving for power, has been the creation of a party organization within the house that is perhaps the most rigid in the world. The young man who enters parliament today finds soon enough that the first essential to success is absolute obedience to the leaders of his party. Independence is insanity in the house of commons. It would be the suicide of effectiveness. Power comes only through prominence in the counsels of the

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party in power; prominence only through subserviency to those who can bestow it.[71]

The result is inevitable. The private member has become to a large degree the cabinet's rubber stamp on every government measure—or the rubber stamp of those who hope to succeed to that high estate. No better proof of this can be had than the votes on the suffrage bill of 1870 and the suffrage amendment to the reform bill of 1884. In each case scores of private members who, on the second reading or in their pledges to their constituents (occasions when they were permitted to retain their individuality), approved these measures, were later used by the cabinet as rubber stamps officially to negative their own expressed convictions. The same thing happened in 1871, 1872, 1873, on the second bill of 1906, and in 1892 in a slightly varied form—forced subserviency to an opposition leader who may become chief patronage dispenser and font of power at the next general election.

The second foundation stone of cabinet autocracy is the control of the government over the time of the house. The pressure of business is now so great that the members of the house in their capacity of rubber stamps have sanctioned rules giving government bills right of way to an extent which in their capacity as individuals they bitterly and openly resent. These rules have given power to the cabinet to plot out the course of legislative business at all sessions except a very few reserved for private members' measures. Their time is limited to Tuesdays and Wednesdays from 8.15 to 11 p.m., and on Fridays from noon to 5.30. After Easter, however, the Tuesday period is eliminated, and after Whitsuntide only the third and fourth Fridays following are allowed to the private member.[72] Even these days are not secure against government aggression. The private members have less than ten per cent of all the time of the house at their disposal,—and the individual member must

[71] For two brilliant analyses of this situation see Belloc and Chesterton, *The Party System*, pp. 77-98, and Low, *The Governance of England*, pp. 55-94.

[72] Lowell, *Government of England*, vol. 1, pp. 311-312; House of Commons, Standing Order No. 4.

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ballot for any share in it at all,—and even that small fraction may be eaten into by government business. The way this works out in practice and a suggestion of how it can be used as a club on offending legislation by the cabinet may be seen from the fate of the suffrage measures of 1874, 1881, 1884 (second bill), 1885, 1887, 1895, 1896, 1899, 1900, 1901 and 1903.

Another use of the control of time is the cabinet's power over the sittings of the committee of the whole. If a private member's bill passes its second reading and is referred to the house sitting as this committee,[73] it is absolutely at the cabinet's mercy, for the government controls all these periods. The deadly effect of this big stick on the private member is illustrated by the suffrage measures of 1886, 1889, 1907, 1908, 1909, 1910 and 1911.

A third method of cabinet domination is the power of any member, either in his individual or his rubber stamp capacity, to talk a bill out. The private members' time, as we have seen, is fixed and rigid. If the debate can be prolonged until the closing hour any bill can be as effectively defeated as by a clear adverse vote. This method we have seen freely used against suffrage in 1882, 1890, 1893, 1897, 1898, 1905, 1906 and 1907.

If all these methods fail there is still the chance that the speaker will hand down a ruling that will favor the cabinet—as occurred in 1913. The speaker of the house of commons is by tradition a purely nonpartisan official and his rulings are in theory strictly judicial.[74] It has not been proved that in 1913 or in 1907, when he refused to recognize motions for closure which would have prevented the bill from being talked out, he was deliberately opposing suffrage measures. But at least there is the possibility of a speaker in league with the cabinet influencing bills in this way—a temptation of some force on occasions.

It is practically impossible, as this page of parliamentary history bears eloquent testimony, for a private member's bill to dodge the fatal blows of the cabinet big stick, if they see fit to use it. Of course such private measures do pass. Some ten

[73] This is done on all "contentious" bills—i.e., measures of some importance which are opposed.

[74] Lowell, op. cit., p. 260.

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or fifteen usually find their way into the statute books each year. Only one or two of them a session, however, are likely to stir enough opposition to lead to a division.[75] That, of course, is the secret of their success: the big stick has not been wielded.

It must be clear by this time that as far as the wishes of the individual members go—or even of a majority of the majority party—there is no such thing as "parliamentary supremacy." The cabinet controls all legislation proposed by the commons. It may still be true, however, that the commons may exercise some control over legislation proposed by the cabinet—that its members may be free to oppose the dictates of the governing clique. Certainly constitutional theory would have it so: the cabinet must resign should the house register an adverse vote on any important government bill. That is the theory. Again the practice explodes it.

A most cursory examination of the causes of cabinet changes during the last half century will be sufficient at least to arouse our suspicions. Since the year 1870, of all the government measures introduced into the house by the cabinet of the day only one has been clearly defeated in such a way as to cause the resignation of the ministry—the home rule bill of 1886 which caused the overthrow of Gladstone. It may be true that the cabinet would resign if defeated on a measure in the house,—a threat often used against recalcitrant members,—but every cabinet official must know that the chances of such a defeat are practically nil.

The party machine is a two-edged sword. It cuts both ways. It beheads the private member if he pushes his own bill and it beheads him if he opposes the bill of his leaders. It is only in the rarest crises that the sword does not win the day for the cabinet that wields it.

In other words, whatever doubt may remain that the cabinet can effectually thwart even a majority of the members of the house, there can be even less doubt of the converse of the proposition. If any cabinet in the past thirty years had made suf-

[75] Lowell, op. cit., p. 314.

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frage a government measure only the rather doubtful power of the lords could have prevented its becoming the law and practice of the land.

It seems as though the story of parliamentary supremacy, like that of the subconscious mind in Münsterberg's book, could be told in three words: there is none. At all events the history of suffrage in parliament can furnish one chapter in the case against its existence. The full story and the final proof of the domination of the cabinet have yet to be written. We have applied in detail but one acid test to the prevailing theory. The reaction we obtained is but a small part of what might be written, and it is entirely negative. But the experiment has yielded at least one positive by-product: a lesson to all those who beat the frail fists of their agitation against the cold, smooth walls of the English parliament. It is this: convert the cabinet first, or—overthrow its power.

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LEGISLATIVE NOTES AND REVIEWS

EDITED BY JOHN A. LAPP

Director Indiana Bureau of Legislative Information

Illinois Administrative Code. Under the active leadership of Governor Lowden the general assembly of Illinois has enacted a civil administrative code (in effect July 1) which will bring about a radical reconstruction of state administration, constituting by far the most important step thus far taken in the reorganization of state government in the United States. The general principles of the reform are similar to those in the proposed revised New York constitution of 1915; and more definitely the new code is based on the report of an efficiency and economy committee of the general assembly submitted two years ago. But the law as passed does not cover the whole field of state administration; and there are important modifications from the proposals of the efficiency and economy committee.

The primary object of the new code is to reorganize and consolidate the numerous state administrative officers, boards and commissions into a limited number of state departments, as in the national government of the United States. Nine main departments are created, on finance, agriculture, labor, mines and minerals, public works and buildings, public welfare, public health, trade and commerce, and registration and education. These departments will absorb the functions of forty executive officers and fifty boards and commissions, as well as a larger number of subordinate officials. Each department will have at its head a director; and there will also be about forty other officials in charge of various bureaus and divisions, with some administrative and some unpaid advisory boards. All of these officials will be appointed by the governor with the consent of the senate, and (with the exception of the normal school board) for terms of four years. A number of substantially new positions are created and the more important officers will receive larger salaries than formerly—the directors receiving from $5000 to $7000 each. But there will be a net reduction of about a hundred official positions. Persons in the classified civil service will be transferred and assigned to positions in the new departments.

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The department of finance will have substantially a new field of work. It will take over the functions of the governor's auditor and the compilation of estimates of appropriations from the legislative reference bureau. But in addition it will have charge of the preparation of a state budget, supervise and examine the accounts and expenditures of the departments, prescribe rules for the purchase of supplies, examine and approve or disapprove vouchers and claims, and investigate the efficiency of the departments. The budget will be based on reports and estimates of revenues and expenditures from the several departments, officers and institutions, revised by the director and submitted to the governor, who is to submit the budget with the amounts of appropriations recommended by him and estimates of revenue to the general assembly not later than four weeks after its organization. Through its control over the budget, accounts and expenditures and its power of investigation, this department will have a large degree of supervision over the other departments. But it should be noted that it does not include nor control the elective state finance officers, and thus has no authority over the administration of the revenue laws or the management of the state treasury. In this respect it falls short of the plan of the efficiency and economy committee, which provided for a state finance commission, including the elected auditor and treasurer, and for a more efficient administration of the tax and revenue system.

The department of agriculture will exercise the powers and duties of the board of live stock commissioners, the state veterinarian, the stallion registration board, the inspector of apiaries, the game and fish commission, the state food commissioner, the state entomologist, and the state board of agriculture, though the latter board will be continued until January 1, 1919. This will make possible the effective organization and coördination of the work of these authorities, now substantially independent of each other. The inclusion of the food inspection work in this department rather than in the department of health, as proposed by the efficiency and economy committee, will tend to emphasize the economic rather than the sanitary aspect of this work. Under the director of the department there will be a general manager of the state fair, a superintendent of foods and dairies, a superintendent of animal industry, a superintendent of plant industry, a chief veterinarian, a chief game and fish warden, and a food standard commission, a board of 15 agricultural advisors and a board of 9 state fair advisors.

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The department of labor will have the powers and duties of the commissioners of labor, the superintendents of free employment agencies, the inspectors of private employment agencies, the factory inspectors, the state board of arbitration and conciliation and the industrial board. Provision is made for a chief factory inspector, a superintendent of free employment agencies, a chief inspector of private employment agencies, an industrial commission and unpaid boards of free employment office advisors. The industrial commission will administer the workmen's compensation law and the arbitration and conciliation act "without any direction, supervision and control by the director" of the department; and will therefore be in effect a distinct branch of the state administration.

The department of mines and minerals will take over the functions of the state mining board, the state mine inspectors, the miners' examining commission and the mine rescue station commission. Provision is made, however, for a mining board of four mine officers and the director of the department. There will be also a miners' examining board, to administer the laws for the examination of miners without being subject to the supervision of the director.

The department of public works and buildings will be one of the most important. It will exercise the powers and duties of the state highway commission, the canal commissioners, the rivers and lakes commission, the waterway commission, the state park commission, the boards of trustees of several state reservations and buildings and the superintendent of printing. It will also act as a general purchasing and supply agency for the several departments and the charitable, penal and reformatory institutions, will prepare general plans and have supervision over the construction of public buildings and monuments, and make leases for the several departments. The efficiency and economy committee proposed to place the control of public printing and the purchase of office equipment and supplies in the department of finance, and the purchase of supplies for state institutions in the authorities responsible for the management of the institutions. These functions do not appear to be closely related to the construction and management of state roads, canals, river improvements and public buildings.

Under the director of public works and buildings there will be a superintendent of highways, a chief highway engineer, a supervising architect, a supervising engineer, a superintendent of highways, a superintendent of printing, a superintendent of purchases and supplies,

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a superintendent of parks, and unpaid boards of art advisors, water resources advisors, highway advisors and parks and buildings advisors.

The department of public welfare will have charge of the charitable, penal and reformatory institutions of the state. It will include the functions of the board of administration (which now controls the charitable institutions), three boards of commissioners and managers for the two state penitentiaries and reformatory and their subordinate officials, the board of prison industries and the board of pardons. Provision is made for an alienist, a criminologist, a fiscal supervisor, a superintendent of charities, a superintendent of prisons, a superintendent of pardons and paroles, and an unpaid board of public welfare commissioners, which takes the place of the present state charities commission.

The efficiency and economy committee proposed a single board of prison administration, while retaining the board of administration for the charitable institutions. The new code provides for a more complete consolidation in the management of both classes of institutions, limited however by the control of the department of public works and buildings over the purchase of supplies.

The new department of public health will take over the powers of the state board of health, except those relating to the examination and licensing of physicians, other medical practitioners and embalmers. There will be a superintendent of lodging house inspection and an unpaid board of five public health advisors. The scope of this department will be distinctly less than in the plans of the efficiency and economy committee, which proposed to include in the health department the food inspection service, and the examination and licensing of physicians, embalmers, pharmacists, dentists and barbers.

The department of trade and commerce will exercise the powers of the public utilities commission, the insurance superintendent, the grain inspection service and the state fire marshall, and will also administer the laws relating to weights and measures and other standards. Provision is made for a superintendent of insurance, a fire marshal, a superintendent of standards, a chief grain inspector, and a public utilities commission, the latter to administer the public utilities law without any supervision by the director of the department. The efficiency and economy committee proposed to include also in this department the supervision of state banks, now vested in the auditor of public accounts.

The department of registration and education, like the department

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of finance, will not include all the state authorities dealing with the subject matter of its title. It will embrace the functions of the five boards for the several state normal schools, eleven boards of examiners for various professions and trades, and four scientific bureaus (the geological survey, the state water survey, the laboratory of natural history, and the museum of natural history). But it does not include the functions of the elective state superintendent of public instruction nor of the board of trustees of the University of Illinois. Moreover the normal schools will be under the management of a single board which is to be independent of the supervision, direction or control of the director of the department.

The principal work of the department will be the examination of applicants for professions and trades. There will be a superintendent of registration, and from three to five examiners will be designated by the director for each profession or trade. There will also be unpaid boards of state museum advisors and natural resources and conservation advisors, the latter to make appointments and supervise the scientific bureaus located at the state university.

The principal results to be expected from this reorganization were pointed out in the report of the efficiency and economy committee two years ago. In the first place there will be more definite responsibility and there should be increased efficiency, from the coördination and correlation of the numerous branches of state administration in the nine main departments, and the active supervision of the directors of these departments. Of special importance are the consolidations of the state correctional institutions and the state normal schools each under a single authority. The new organization should also aid in securing more consistent and more effective legislation, and should prevent the creation of additional and useless officials and boards.

In regard to economy, there will be little if any direct reduction in the aggregate salaries for the new set of officials as compared with those replaced. A number of the important recommendations of the efficiency and economy committee which promised a considerable saving of expense have not been incorporated in the new code. At the same time an efficient budget and accounting system should not only make possible more efficient results from the expenditures made, but should also demonstrate how the expenditures may best be restricted. The actual results in this field, however, will depend in the first place on the work of the director of finance and his principal assistants, in the second place on the personal action of the governor on the budget which he submits to the legislature, and finally on the

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general assembly itself. The new law does not attempt to impose any new limitations or restrictions on the legislature in making appropriations above those recommended by the governor, and under the present state constitution no restriction of this kind can be made. But a carefully considered and comprehensive budget plan, supported by the executive veto of appropriation items, should make possible a marked improvement in financial legislation.

It is no disparagement of what has been done to point out that the new code does not affect the whole field of state administration, and falls short in some respects from the plans proposed by the efficiency and economy committee. None of the elective state officials are included in the new system of departments, so that in addition to the nine new departments there remain as independent authorities the secretary of state, the auditor of public accounts, the state treasurer, the attorney general, the superintendent of public instruction, the trustees of the state university and the state board of equalization. The first five of these are constitutional officers, whose constitutional functions cannot be restricted by the legislation. But some of these officers have statutory powers not related to their constitutional functions; and these too, have been left undisturbed. For example, the auditor of public accounts remains in charge of the administration of the state banking laws. So too, the unwieldy state board of equalization (a statutory board composed of 26 members, elected by congressional districts) is unaltered; and the much needed reform of tax and revenue administration is not even begun. The autonomy of the university leaves that institution freer from the danger of political control; but the educational system of the state still lacks any comprehensive official organization.

A number of other statutory state authorities also continue outside of the new departmental organization. These include the national guard, the civil service commission, the legislative reference bureau, the state library, the state historical library and the farmers institutes. Moreover, several of the boards have only a nominal connection with the department with which they are grouped. This is most striking in the case of the public utilities commission, the industrial commission, and the miners' examining board. In the cases of the mining board and the normal school board, the directors of the departments are ex officio members; and a similar provision in the other cases would have provided a useful connecting link.

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Constitutional Conventions. On the second Tuesday in January, 1918, a constitutional convention will assemble at the capitol in the city of Indianapolis for the purpose of drafting a new constitution for the state of Indiana. Indiana's present constitution was adopted in 1851 and is the eighth oldest state constitution in the United States. Connecticut, Maine, Massachusetts, New Jersey, Rhode Island, Vermont and Wisconsin are the seven states having older constitutions than Indiana.

Of these states Massachusetts with the oldest basic law dating back to 1780 decided at the general election in 1916 by a vote of 217,293 to 120,979 to call a constitutional convention; and the machinery for holding such a convention is being put in readiness to begin on the first Wednesday in June of this year the work of drafting a new fundamental law for the state. Delegates to the number of 320 will be elected on the first Tuesday in May, of which number 16 will be elected at large, 4 from each of the sixteen congressional districts, and 240 from the state representative districts. Nominations were made by nominating papers without any party or political designation; and nominating papers had to be signed by not less than 1200 voters for each candidate for delegate at large, by not less than 500 voters for each candidate from a congressional district, and by not less than 100 for each candidate from a representative district. Provision was made that if in the commonwealth at large, or in any district, the number of persons nominated by nominating papers exceeded three times the number of delegates to be elected, a non-partisan primary should be held in the commonwealth or in such district on the first Tuesday in April. The last date for obtaining signatures to petitions was March 6. As 52 candidates for delegate at large filed their nominating papers containing the required number of signatures with the secretary of state, it was necessary to hold a primary election at large. In three congressional districts and 103 representative districts it was also necessary to hold primary elections to cut down the large number of candidates for delegates from these districts.

The method of amending the present Indiana constitution has been exceedingly difficult. Article XVI, section 1 of the constitution requires that an amendment to be adopted must pass two successive legislatures, be submitted to the electors of the state, and receive a majority of all the votes cast not only on the amendment but at the election. During the sixty-seven years since the adoption of the present constitution, only eight amendments have been adopted although

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no less than two hundred separate attempts to amend have been considered by Indiana legislatures. At three different times an amendment fixing the qualifications for the practice of law in the state received a majority of the votes cast thereon but failed for lack of a constitutional majority. At present, article VII, section 21 of the constitution provides that "every person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice."

The difficulty of securing amendments to the Indiana constitution has been further increased by article XVI, section 2 of the constitution, which provides that while one or more amendments which shall have been agreed upon by one general assembly shall be awaiting the action of the succeeding general assembly, or of the electors, no additional amendment can be proposed. A bewildering series of court decisions based on this section of the constitution make the situation still more difficult and complex. Previous to 1880, following the decision in State v. Smith, an amendment which had received a majority of the votes cast on it but not a majority of the votes cast at the election was held to be still pending and therefore obstructive to further amendments. In 1900 this decision was reversed when in a similar case the amendment which had received only a majority of the votes cast thereon was declared to be rejected and not obstructive to further proposals. Later, return was made to the first decision when in 1912 the court held that the lawyer's amendment was obstructive to further proposals to amend the constitution. The following year, on the question of the pendency of the lawyer's amendment, the court returned to the stand that an amendment which had failed to receive a majority of all the votes cast at the election was rejected.

The so-called "Marshall Constitution" of 1911 was an attempt on the part of the Indiana legislature to frame a new constitution and submit it to the people after its passage by one legislature. This attempt proved a failure, the supreme court of the state holding, in the case of Ellingham v. Dye 99 N. E. 1, that the "legislative power" conferred by the constitution upon the legislature does not include the power to formulate a new constitution.

Since about 1911 there has been a strong organized movement throughout the state for a constitutional convention. At the head of the movement was an organization known as the Citizens' League, composed of prominent men from all parts of the state. In 1914 the question of calling a constitutional convention was submitted at the general election and rejected by a vote of 338,947 to 235,140, which adverse

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vote was largely due to the fact that the issue was confused by being placed on the same ballot with another measure to be voted on providing for the erection of a $2,000,000 state centennial building. The act passed by the 1917 legislature calling a constitutional convention is unusual in that it does not provide that the voters of the state be given an opportunity to pass on the advisability of holding such a convention.

The act calling the Indiana constitutional convention provides for the election on the third Tuesday in September, 1917, of 115 delegates, 100 of the delegates to be elected from the state representative districts, each district electing as many delegates as there are representatives from the district, and the remaining 15 to be elected by the state at large. Each voter is, therefore, entitled to help elect 15 delegates at large and as many from his representative district as there are now representatives from his district in the state legislature.

Nomination of candidates for the office of delegate to the convention will be made by nominating petitions only, which must be signed in the aggregate by not less than 200 voters for each candidate from a representative district, and by not less than 50 voters residing in each of the thirteen congressional districts for a candidate at large. To become a delegate a person must be a citizen of the United States, a resident of the state for two years next preceding his election, and a resident of the county in which he resides at the time of his election for one year. Petitions must be filed with the secretary of state not less than thirty nor more than sixty days prior to the day of the election. The names of candidates for delegates will be placed on one independent and separate ballot without any emblem or party designation. Ballots for delegates from representative districts and at large are to be printed separately, and the names of candidates rotated so that each name will occur first on the ballot an equal number of times.

At the election of delegates to the constitutional convention, the women of the state of Indiana, given the right of suffrage for all non-constitutional officers by the 1917 legislature, will exercise this right for the first time. Women are eligible to become candidates for delegates to the convention and may also vote on the final adoption of the constitution. In this connection it is extremely significant that Indiana is the only state that has ever given women the opportunity to help write into the state constitution under which they are to live a section granting to themselves full constitutional suffrage.

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The new constitution must be submitted to the legal voters of the state to be by them ratified or rejected at such time and in such manner as the convention may determine. Provision is also made that upon demand of forty-five delegates any question which is to be submitted must be submitted separately to the voters. This provision should insure against such a disaster as occurred in New York State in 1915 when the entire work of a convention submitted in bulk was rejected.

As authorized by the law the bureau of legislative information is to collect, compile and prepare such information and data as it may deem useful to the delegates and the public. In Massachusetts a special commission has been created to compile information and data for the use of the constitutional convention.

The voters of four states defeated at the polls in 1916 proposals to call constitutional conventions. New York defeated such a proposal by a vote of 656,051 to 504,250; Colorado by a vote of 69,579 to 53,530; South Dakota by a vote of 56,432 to 35,377; and Tennessee by a vote of 67,342 to 64,393. New Hampshire voters approved a call for a constitutional convention by a vote of 21,649 to 14,518. In the state of Nebraska, which has for some time felt the need of rewriting the basic law of the state, an initiative petition providing for holding a constitutional convention was circulated prior to the last election but did not, for lack of signatures, get a place on the ballot. Minnesota is another state where there has been for a number of years an effort to get a new constitution.

It was recommended by the governors of Arkansas, Illinois, Indiana, Kansas, Missouri and Washington in their respective messages to the 1917 legislatures of their states that constitutional conventions be called to rewrite the constitutions of those states. In Indiana the outgoing governor as well as the incoming governor recommended the calling of such a convention, and both political parties at the last election in the state committed themselves in their state platforms to a call for a constitutional convention. In Illinois the general assembly has voted to submit to the voters of the state at the next general election (November 1918), a proposal to call a constitutional convention. The Arkansas legislature also has passed an act for a constitutional convention, which will meet in Little Rock, November 19.

ARTHUR CONNORS.

Indiana Bureau of Legislative Information.

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Absent Voting. During the last four years there has been a marked tendency throughout the country to extend the right of voting to electors who are necessarily absent from their voting places on election day. With one notable exception, this tendency seems to be inseparably connected with the changing economic conditions of the country. Thousands of men are now constantly employed in the operation of railroad trains; the nature of their business necessarily requires their absence from home on election as well as other days, with no opportunity, in many cases, of casting their votes either at the beginning or at the and of their runs. Traveling salesman, railway mail clerks and other persons who are regularly or occasionally absent on business have been subjected to the same inconvenience. To these economic causes has been added, during the past year, the mobilization of the militia on the southern border, just prior to the presidential election.

Prior to 1913, only one state had provided for absent voting; in 1913 laws were passed in four states; in 1915 seven other states enacted similar laws; in 1916 three other states, including Oklahoma, Virginia and Massachusetts, were added to the list; and during the sessions of 1917, in response to the urgent recommendation of governors, absent voters laws have been under consideration in several states.

The Oklahoma law was approved on March 7, 1916. It is not as liberal or inclusive as some of the other absent voters laws and applies only to electors who are absent from their own precincts but still within the state, and applies to general elections only. Such absent voters, if properly registered, are entitled to vote for federal, state, district or county officers, and the votes are counted by the county canvassing board when the general election returns are canvassed.[1]

The Virginia law was approved on March 20, 1916. Absent voters may vote in any place either in the United States or in any foreign country at any primary or general election. An absent voter must notify his precinct registrar; make written application for a ballot; and vote the ballot in presence of an officer authorized to take acknowledgments. Seven days prior to election the names of all applicants for absent voters ballots are posted for public inspection; the ballots are counted in each voting precinct.[2]

The Massachusetts law is an emergency measure, and was designed to enable voters who were absent on account of military service to vote for candidates for presidential electors, United States senators and

[1] Laws, Extraordinary Session, 1916, p. 51.
[2] Laws, 1916, p. 633.

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representatives in congress in the year 1916. The adjutant-general was required to furnish a roster of all members of the volunteer militia or national guard on the Mexican border to the secretary of the commonwealth; the secretary was required to supply from such roster to the registrars of voters a list of absentees in each city and town; and the registrars were required to indicate those entitled to vote in each such city or town. Lists of absent voters in each congressional district were published in one or more newspapers in each district and in military camps where the troops were quartered. The details for the voting or canvass of returns were entrusted to a board of election supervisors appointed by the governor.[3]

At the opening of the session of 1917, the governors of Illinois, Connecticut, Arkansas, Ohio, New Mexico, New Hampshire, Montana, Michigan, Utah and Indiana recommended the passage of absent voters laws where none was in operation, or the amendment of such laws where they were defective or too restricted in their scope. Governor Marcus H. Holcomb of Connecticut recommended the adoption of a constitutional amendment under which, in the event of future war, the electors absent on military duty might be permitted to vote without calling a special session to pass enabling legislation, as was done in 1916. Governor E. C. DeBaca of New Mexico recommended an amendment to the existing law to safeguard the voting of absent railroad employees outside their own precincts. Governor S. V. Stewart of Montana said the absent voters law of 1915 of that state had worked well, and he recommended that it be extended "to admit of the voting of those physically unable to reach the polls"; and Governor Albert E. Sleeper of Michigan advanced a similar recommendation by urging that the law of that state be made applicable to "all voters legitimately detained from their voting precincts." The constitution of Utah, adopted in 1895, provided that "soldiers in time of war may vote at their post of duty, in or out of the state, under regulations to be prescribed by law." No such law has ever been passed, however, and Governor Simon Bamberger urged the passage of such a law to carry out the plain intent of the constitution.

In Indiana at the session of 1917, in response to the recommendation of Governor James P. Goodrich, the general assembly enacted a comprehensive absent voters law. This law applies to all voters who are necessarily absent from their voting precincts on election day and is made to

[3] Session Laws, 1916, p. 591.

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include voters who because of illness or physical disability are unable to attend the polls. Voters expecting to be absent on election day may apply to the clerk of the circuit court of the county in which they reside, not more than thirty nor less than two days before election, for an absent voters ballot to be used at any general, primary or special election. These applications are preserved by the clerk until the official ballots are delivered to him fifteen days before election, when he is required to mail ballots to all voters whose applications are on file. The voter marks the ballot before any officer authorized to administer oaths and having an official seal, but in such manner as not to disclose how he has voted. The ballot is then mailed to the clerk and preserved and sent out with the election supplies to the election inspector. All absent voters ballots must be counted in the precinct in which the elector is a legal resident.[4]

CHARLES KETTLEBOROUGH.

Indianapolis, Indiana.

The Short Ballot—Governor's Messages. The proposal, designated in the New York constitutional convention as a step nearer monarchy, otherwise known as the short ballot, received attention this year from no fewer than ten governors. Some of the executives confined themselves to general approval of the principle of the short ballot. Governor Keyes of New Hampshire merely remarked that while that state stood in less need of the reform than other states, the legislators might find "some of its principles worthy of application." Governor Brough of Arkansas referred to the "splendid short ballot principle," as one to which the constitutional convention might well direct its attention. Governor Hatfield of West Virginia declared, "After nearly four years official experience of the working of our present system, I am more convinced than ever of the desirability of incorporating the short ballot principle into our constitution." Governor Bickette of North Carolina followed his recommendation for a constitutional amendment for the short ballot, with a recognition of some of the standard arguments in its behalf. "It is simply impossible," he said, "for the average man in North Carolina, who reads and takes a live interest in public affairs, to acquaint himself sufficiently with all of the men who run for state administrative offices to pass upon them with any satisfaction to himself." Governor Norbeck of South Dakota also amplified

[4] Laws, 1917, Chapter 100.

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the argument. He said that "one of the evils of the present system is divided and scattered responsibility. The people prefer to hold the governor responsible for the proper conduct of the different departments of the state, though under our present form the governor has not the slightest authority over any of them. Possibly some day, the governor of this state will be authorized and required to select his own cabinet, the same as the President. Certainly it would be a matter of business and common sense that he should select his own legal adviser, the attorney-general; but these matters cannot be brought about except by constitutional amendment, and it is my opinion that the people of this state are not yet ready to accept them. However, I expect to see the change come in the near future."

Governor Neville of Nebraska advocated the short ballot very literally. His recommendation looked to the lessening of the actual number of names on the ballot, at any one election, but not to the lessening of the total numbers of officers actually chosen by the people. He suggested that county officers be elected for terms of four years, at elections to be held in the middle of the presidential term, and that the names of the presidential electors be kept off of the ballot. Such a provision would lessen the state printing bill, and might help a few voters whom a large ballot sheet perplexes, but manifestly, it does not touch the real evil of the long ballot.

The subject of the county ballot was attacked by Governor Capper of Kansas. He threw out the suggestion of commission government for counties, and added that several officers could be abolished without so radical a change, necessitating as it would a constitutional amendment. He singled out the office of register of deeds as a useless office, which could well be turned over to the county clerk.

Governor Lowden, of Illinois, besides favoring the abolition and consolidation of a large number of offices and boards, gave his general approval to the short ballot, on the ground that "diffusion of power does not safeguard against official abuse, as was once thought, but only disguises it." He made the excellent point that the need for the short ballot "was never so great it as is under the present primary election laws." Indeed it is safe to say that the direct primary will either kill itself or force the short ballot.

The most specific proposals of short ballot reform were made by Governors Philipp of Wisconsin and Goodrich of Indiana. Governor Philipp advised that the secretary of state, state treasurer and attorney general be appointed by the governor instead of elected. These

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officers, he argued, "should be the governor's advisers, and should, therefore, represent the same political views as the governor. It is decidedly injurious to the state government, and therefore, a loss to the people if any of the departments are opposed to the governor's policies, and engage in political schemes to make his administration unpopular with the people."

Governor Goodrich proposed several important changes. He advocated the abolition of numerous offices, and the consolidation of others. He advised that the oil inspection bureau be abolished. He advised that the office of state fish and game commissioner, state board of forestry, state geologist and state entomologist be abolished and their work turned over to a state conservation commission to be created. Of these, the state geologist alone is an elective office. He recommended that the office of state statistician, an elective office, be abolished, and that the statistical work of the office be turned over to the executive department, that the collection and publication of statistics and information be done by the governor, and the bureau of legislative information, and the work of the employment bureau be turned over to the industrial board which administers the workmen's compensation act. "Many thousand dollars," he said, "can be saved by the abolition of this office, and the distribution of the work as indicated." He likewise advised that all legal offices attached to state boards and commissions be abolished, that all legal work of the state be done by the attorney-general's office, and that this office be made appointive.

There were no particularly original suggestions made by these governors, and yet it is clear, if from nothing more than the way in which the standard arguments for the short ballot are repeated, in phrases already becoming hackneyed, that the movement is making headway.

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JUDICIAL DECISIONS ON PUBLIC LAW

JOHN T. FITZPATRICK

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Bulk Sales Law—Constitutionality. Klein v. Maravelas. (New York. December 15, 1916. 114 N. E. 809.) The court of appeals of the state of New York has declared the bulk sales law constitutional, holding that its prohibitions do not impose arbitrary and purposeless restrictions upon liberty of contract. In so doing it reverses the decision of the same court in Wright v. Hart (1905) 182 N. Y. 330, 75 N. E. 404, which held a former similar statute unconstitutional. The court, in thus reversing itself, pointed to the fact that similar statutes have been upheld by the United States supreme court and by the courts of last resort of nineteen states, and that in but one state had such a statute been held invalid. The court says, "In such circumstances we can no longer say, whatever past views may have been, that the prohibitions of this statute are arbitrary and purposeless restrictions upon liberty of contract. . . . The needs of successive generations may make restrictions imperative today which were vain and capricious to the vision of times past. . . . Back of this legislation, which to a majority of the judges who decided Wright v. Hart seemed arbitrary and purposeless, there must have been a real need. We can see this now, even though it may have been obscure before. Our past decision ought not to stand in opposition to the uniform convictions of the entire judiciary of the land." For other recent decisions upholding the uniform bulk sales law see Gazette v. Wipf. (Wisconsin. December 5, 1916. 160 N. W. 170.); Marlow v. Ringer. (West Virginia. February 6, 1917. 91 S. E. 386.)

Civil Rights.—Imprisonment for Debt. Kansas City v. Pengilley. (Missouri. November 11, 1916. 189 S. W. 380.) A municipal ordinance making it a misdemeanor to hire a vehicle for the purpose of riding therein, or transporting merchandise therein, and to refuse to pay therefor is invalid under a constitutional provision prohibiting imprisonment for debt. The obligation arises out of contract and is

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strictly within meaning of the word "debt." The constitutional prohibition may not be evaded by the device of declaring a simple breach of contract a crime. This is especially so where the ordinance does not require proof of fraud in the procurement and use of the vehicle. The fact that the vehicle is hired from a taxicab company, a common carrier, does not lead to a different conclusion. The common carrier is in no wise at the mercy of its patrons. It may require payment in advance if it so desires, and thus protect itself.

Citizens—Expatriation. Ex parte Griffin. (United States. December 2, 1916. 237 Fed. 445.) A citizen of the United States, born in the United States, who goes with his family to Canada, and there later enlists in the army of that country for service in the European war, making the necessary enlistment declarations and taking an oath of allegiance to the king of England, and actually enters the service, thereby effectually expatriates himself under the provisions of the United States statute providing that an American citizen shall be deemed to have expatriated himself when he has taken an oath of allegiance to any foreign state. Such person not only abandons and renounces his citizenship in the United States, but becomes an alien, and by such removal, enlistment and oath of allegiance to a foreign power, initiates naturalization in such foreign country. The fact that enlistment was for a limited period does not change the effect of taking the oath of allegiance which contained no limitation.

Common Carriers—Required Maintenance of Telephone Connections. State ex rel. Nebraska State Ry. Commission v. Missouri Pac. Ry. Co. (Nebraska. December 29, 1916, 161 N. W. 270.) A statute requiring common carriers to furnish adequate telephone connections between its offices, buildings and grounds and the public exchanges operated in the towns where the same are located, is not unconstitutional as depriving the carrier of its property without due process of law. The telephone is generally used as a factor in the transaction of public business, and a statute requiring a railroad company to connect a station with the local telephone exchange for the convenience of shippers and passengers does not go beyond the incidental duties of a common carrier. The duties of a common carrier are not limited to the actual transportation of persons and property, and the furnishing of adequate facilities for the transaction of public business is a function of a common carrier.

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Constitutional Amendments—Adoption. Harris v. Walker. (Alabama. February 1, 1917. 74 S. 40.) A provision in the constitution provided that a majority of the qualified voters who voted at the election upon proposed amendments must vote in favor of the same in order that such amendments should become part of the constitution. The court held that where two or more amendments were submitted at the same election a vote upon an individual amendment did not require for its adoption a majority of the highest number voting upon any amendment, but merely a majority of those voting upon the single amendment in question; nor where such amendments were submitted at a general election was it necessary for their adoption that the majority of those voting for candidates at the general election should be in favor of the proposed amendments. When a constitutional amendment is adopted in the manner specified by the constitution, and there is nothing to indicate that the matter should be referred to the legislature for further action, it will be construed as effective from the date of its adoption.

Constitutional Amendments—Veto by Governor. People ex rel. Stewart v. Ramer. (Colorado, November 6, 1916. 160 P. 1032.) The act of a legislature in proposing an amendment to the constitution or recommending that the electors vote on calling a constitutional convention, as ordinarily provided for in the constitutions of the states, is initiatory only; and to be effective must receive the approval of the electors. A constitutional provision requiring the approval of the governor to resolutions passed by the legislature does not apply to resolutions proposing constitutional amendments. The function is one which applies to the legislature only and is one with which the executive has nothing whatever to do, and to which his approval is unnecessary.

Constitutions—Self-Executing Provisions. Wren v. Dixon. (Nevada, December 15, 1916. 161 P. 722.) In determining when a constitutional provision is self-executing, distinction should be made between declarative constitutional limitation of legislative power on a given subject, within which limitation legislation might or should be enacted, and positive constitutional inhibition, which inhibition no legislative act can relieve or modify. The former might require future legislation; the latter must, by reason of its very nature, be self-executing. Prohibitory provisions in a constitution are self-executing to the

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extent that anything done in violation of them is void, and no legislation is required to execute such provision; but they are not self-executing when they merely indicate principles without laying down rules by which they may be given the force of law.

Criminal Prosecutions—Power of Court to Grant Permanent Suspension of Sentence. Ex parte United States. (United States. December 4, 1916. 242 U. S. 27.) While under our constitutional system the right to try offences against the criminal laws, and upon conviction to impose the punishment provided by law, is judicial, and in exerting such powers courts inherently possess ample right to exercise judicial discretion to enable them wisely to exert their authority, they have no inherent right permanently to refuse to impose the sentence provided for. The authority to define and fix the punishment for crime is legislative and includes the right in advance to bring within judicial discretion, for the purpose of executing the statute, elements of consideration which would be otherwise beyond the scope of judicial authority; and the right to relieve from punishment, fixed by law and ascertained according to the methods by it provided, belongs to the executive department. If it be that the plain legislative command fixing a specific punishment for crime is subject permanently to be set aside by an implied judicial power upon considerations extraneous to the legality of the conviction, it would follow that there could be likewise a discretionary authority permanently to refuse to try a criminal charge because of the conclusion that a particular act made criminal by law ought not to be treated as criminal. It would thus come to pass that the possession by the judicial department of power permanently to refuse to enforce a law would result in the destruction of the conceded powers of the other departments.

Direct Legislation Must Be Constitutional. State ex rel. Evans v. Stewart. (Montana. November 13, 1916. 161 P. 309.) No distinction is to be made between a statute enacted by the people directly and one enacted by the legislature with the approval of the governor; the result is the same in either case. The people perform the function of the legislature, and acting as a legislative body, can no more transgress the provisions of the state constitution than can their representatives in the legislature; constitutional amendments can be made only in the manner indicated by the constitution itself.

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Former Jeopardy. State v. Gaimos. (Montana. December 22, 1916. 162 P. 596.) This term is not intended to apply merely to those cases where a verdict has been rendered, but it applies as well to every case where the defendant has been brought to trial in a competent court upon a sufficient indictment before a jury duly impaneled and sworn; and whenever such jeopardy has occurred for the same offense and has, without necessity or procurement of the accused, ended by a discharge of the jury before verdict, the plea is available. So held, where a jury was called and sworn, the prosecuting officer made his opening statement, and a witness took the stand for the state; the defendant objected to the examination of such witness because his name had not been indorsed upon the information; these objections were sustained; the prosecuting officer applied for leave to indorse said names upon the information, which leave was refused; and thereupon, on motion of the prosecuting officer, the defendant not consenting, the court dismissed the information and discharged the jury from further consideration of the cause.

Former Jeopardy—Ex parte Myers. (Oklahoma. November 20, 1916. 160 P. 939.) The defendant was sentenced to fine and imprisonment. Thereafter and after the execution of the sentence of imprisonment a further order was made by the court that if the fine be not paid the defendant be imprisoned until paid at the rate of one day for each $2 of the fine. On appeal it was held that the court was without jurisdiction to render a second judgment and sentence upon the same charge, or to correct the original judgment after such judgment had been executed, on the ground that such subsequent judgment placed the defendant in jeopardy a second time.

Horse Racing—Regulation by Racing Commission. Douglas Park Jockey Club v. Talbott. (Kentucky. February 6, 1917. 191 S. W. 474.) The legislature may delegate to a state racing commission power to determine the amount of the purses to be offered at race meetings. The act is ministerial and not an act of legislation, where the legislature has declared that all racing is unlawful except upon such conditions as will promote the breeding of thoroughbred horses in the state and prevent unlawful gambling, and has delegated to the commission the power to ascertain and prescribe the rules and regulations that will accomplish this result. The act of legislation is the prohibiting of racing, except upon certain conditions; while the act of ascertaining

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the facts that will promote the industry of breeding thoroughbred horses and prevent unlawful gambling is altogether and purely ministerial. A rule by the commission providing for larger purses to be offered at race tracks nearer larger centers of population is valid as based upon a reasonable ground of classification and as applying to all race tracks operated under similar conditions.

International Law—Contraband Goods Lawful Goods. Atlantic Fruit Co. v. Solari. (United States. September 11, 1916. 238 Fed. 217.) Contraband goods are lawful goods. Whatever is not prohibited to be exported by the positive law of the country is lawful. The law of nations does not declare trade in contraband goods to be unlawful; it only authorizes seizure of contraband articles by belligerent powers; and this it does from necessity. A neutral nation has nothing to do with the war, and is under no moral obligation to abandon or abridge its trade; and yet at the same time, the powers at war have a right to seize and confiscate the contraband goods.

Interstate Commerce—Regulation of Tolls of Interstate Bridges by States. Broadway & Newport Bridge Co. v. Commonwealth. (Kentucky. January 11, 1917. 190 S. W. 715.) In the absence of congressional legislation, it does not seem that the state by virtue of its police power has authority to regulate toll charges upon a bridge across a boundary river. To give such police power to the states would enable them, each acting for itself, to adopt such rules and regulations as to embarrass interstate commerce with burdens which it is not within the power of the states to impose.

Legislative Bills—Time for Approval by Governor. Johnson v. Luers. (Maryland. December 13, 1916. 99 A. 710.) The legislature adjourned April 3, and a bill passed at the session adjourned was signed by the governor on April 18, not having been presented to him until April 14. The constitution of Maryland requires that "if any bill shall not be returned by the governor within six days (Sundays excepted), after it shall have been presented to him, the same shall be a law in like manner as if he signed it, unless the general assembly shall by its adjournment prevent its return, in which case it shall not be a law." It seems that about five hundred bills had been passed within the last two or three days of the session; and the governor, seeing that it would be impossible for him to examine them, asked the chief clerks

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of the house and senate if it could be arranged not to present all of them at one time, and to have the attorney general see them while they remained in their control. This they arranged to do. The court held in view of the fact that it was impossible for the governor to give proper consideration to so many bills within six days, and in view of the fact of the arrangement for the withholding of presentation to him by the chief clerks, a delivery of the bills to the governor's secretary was not intended to be a presentation of them to him as a representative of the governor, or for the purpose of having him then deliver them to the governor, and the approval of a bill six days after such presentation to his secretary made the bill a valid law.

Libel—Constitutionality of Act Prohibiting Defamation of Deceased Persons. State v. Haffer. (Washington, December 29, 1916. 162 P. 45.) The prohibition of the exposition of the memory of a deceased person to hatred, contempt or ridicule does not violate a constitutional provision guaranteeing freedom of speech and writing. And this is so regarding libelous matter published with regard to a person who has been dead for a period reaching back to a time prior to the birth of any person living at the time of the publication. So held with regard to libelous article published concerning George Washington. However, the libel complained of must be distinguished from historical criticism made in good faith in a temperate manner.

Military—Liability of Subordinate Officer Obeying Command of Superior Officer. Herlihy v. Donohue. (Montana. November 10, 1916. 161 P. 164.) The authorities are not agreed upon the question as to the circumstances under which a subordinate military officer may be acquitted for acts otherwise wrongful, upon the score that he merely obeyed a command from one over him in authority. To permit an inferior military officer to stop and question the validity of every command of his superior would, at once, destroy discipline. The same constitution which guarantees the security of life and property provides for organized military forces, and the people in adopting the constitution with its reference to the militia must have had in contemplation militia organized, officered and disciplined as such forces were generally. Necessity is the foundation for organized military forces; and to the extent that necessity requires it, obedience to orders is demanded. But necessity can never require obedience to an order manifestly illegal or beyond the authority of the superior to give; and, therefore, reason and

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common sense seem to justify the rule that the inferior military officer may defend his act against civil liability by reference to the order of his superior, unless such order bears upon its face the marks of its own invalidity or want of authority. If the order is one which the superior might lawfully make, the inferior cannot refuse obedience until he shall investigate the surrounding circumstances and determine for himself that they justify the order in the particular instance. If, on the other hand, the order is so illegal or without authority that any reasonably prudent man ought to recognize the fact, obedience thereto furnishes no excuse for a wrongful act, even though disobedience may subject him to punishment at the hands of a military tribunal.

Motor Vehicles—Regulation and Licensing of Non-Residents. Kane v. New Jersey. (United States. December 4, 1916. 242 U. S. 160.) A state statute may require non-residents to designate the secretary of state as an attorney upon whom process may be served in any action or legal proceeding caused by the operation of motor vehicles by such non-residents within the state. The state may also exact a registration fee from non-resident owners of motor vehicles, not unreasonable in amount, which is exacted alike from residents and non-residents as a condition to the use of its highways for motor vehicles, and that although the fee fixed is without reference to the extent to which the highways are used and although the liability of non-residents is not tempered by the allowance of any period of free use in reciprocation for like privileges allowed by the states in which they reside. The power of the state, in the absence of national legislation, to regulate the use of its highways by motor vehicles moving in interstate commerce, applies as well to those moving through the state as to such as are moving into it only.

Municipal Corporations—Building Ordinances. Dangel v. Williams. (Delaware. November 27, 1916. 99 A. 84.) An ordinance which prohibits the erection of a public garage in a residence portion of a city without the consent of the owners of adjoining lands is unreasonable and is not uniform, and is a delegation of power to the adjoining owners which can be exercised only by the legislature. By it an owner of land may be restricted in a proper use of his land for a particular purpose by his failure to obtain the consent of his neighbor, either because of the arbitrary will or because of the caprice of his neighbor, or for other reasons. The adjoining owner and not the common council

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makes the ordinance effective. The liberty to erect the garage is granted or withheld not by the city, or any of its officers, but by one or more of the owners of adjoining land. This is unreasonable and an unwarranted delegation of legislative power.

Municipal Corporations—Building Ordinances. Spann v. City of Dallas. (Texas. October 28, 1916. 189 S. W. 999.) A building ordinance which provides that it is unlawful to locate or construct any business house within any residence portion of the city except with the consent of three-fourths of the property owners within a radius of 300 feet, and which provides that application for permit should be accompanied with the consent of three-fourths of such property owners, is not invalid as leaving the final decision with three-fourths of the residents of a district. Such ordinance leaves it for the commissioners finally to determine whether or not building permit should issue. The ordinance merely provides for ascertaining whether a particular district is devoted to residences or business houses and determines that the applicant for permit should produce as evidence a written statement setting forth the place of the proposed erection with a map and other evidence showing that there are not more residences than business houses within a radius of 300 feet from such location. If there are more residences than business houses the consent of three-fourths of said residents shall be necessary; but if said number of residents do not consent to the erection of a business house such permit will not be granted.

Municipal Corporations—Rate-Fixing Powers. City of Woodburn v. Public Service Commission. (Oregon. December 5, 1916. 161 P. 391.) The right to regulate rates is inherent in a sovereignty; such right can be delegated to a municipality only in express terms; and all doubts must be resolved against the municipality. A provision of a constitution providing that municipalities may amend their charters does not extend the authority of such municipalities over subjects not properly municipal and germane to the purposes for which municipal corporations are formed. The right of regulating rates is a general concern and does not relate solely to municipal affairs. So a municipality under its home rule charter may not grant a franchise to a public utility limiting the rates to be charged and thereby deprive the public service commission of authority to authorize the public utility company to charge higher rates.

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Non-Residents—Discriminations Against. State v. Stevens. (New Hampshire. November 8, 1916. 99 A. 723.) A statute which provides that lightning rod agents shall be residents of the state does not violate the provision of the federal Constitution providing that citizens of each state shall be entitled to the privileges and immunities of the citizens of the several states. The restriction applies equally to agents whether residents of the state or of some other state. A citizen of the state while claiming the benefit of the license cannot abandon his residence there; nor can a citizen of another state claim the rights of a licensee without maintaining a residence in the state. It does not require the citizen of another state to become a citizen of the state; only that he should reside there. There may be a temporary residence in one state, with intent to return to another, which will not create citizenship in the former.

Vaccination—Validity of Statute and Ordinance Requiring Vaccination of School Children. Herbert v. Demopolis School Board of Education. (Alabama. November 16, 1916. 73 S. 321.) A statute authorizing a municipality to enact an ordinance providing for a system of compulsory vaccination is within the police power, as necessary for the preservation of the public health, even though its effect is to commit to municipal authorities a measure of discretion with respect to the circumstances under which the power delegated shall be made effective. Nor is an ordinance passed in accordance therewith void because its effect is alone visited upon children eligible to attend the public schools. As a matter of classification for legislative purposes, the regular congregation of numbers of children in public school buildings and on playgrounds usually provided about schools necessarily constitutes a condition different, with respect to hygienic circumstances, from that to be found in any other character of assemblage in a municipality.

Women—Limitation of Hours of Labor. State v. Le Barron. (Wyoming. January 18, 1917. 162 P. 265.) A statute which limits the hours of labor of women in restaurants but excepts those employed in restaurants operated by railroad companies is unconstitutional, the distinction being arbitrary and unreasonable. The purpose of such a statute is plainly to protect the health of the employees; there is nothing to indicate that employment in restaurants operated by railroad companies is any less unhealthful to females employed therein than those conducted by private individuals or other companies or corporations.

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The distinctions applicable to other sorts of restaurants are applicable to those conducted by railroad companies. The class of business is the same in each, and the kind of labor required is the same. A waitress in a restaurant operated by a railroad company is entitled to the same consideration in law and to the same safeguards to her health as one employed in a restaurant conducted by a department store or a private individual.

Workmen's Compensation—Application to Police Officers. Griswold v. City of Wichita. (Kansas. January 6, 1917. 162 P. 276.) The theory is that the employer who obtains a profit from the labor of workmen may very easily add to the cost of manufactured goods an amount to cover the cost of compensation to workmen injured in certain hazardous employments, and thus, without loss to himself, the burden may be distributed upon the consumers. A municipal corporation, however, is not engaged in a trade or business, and, therefore, a police officer is not within the provisions of a workmen's compensation act which limits applications to persons employed for the purpose of the employer's trade or business. In enforcing the law a municipal corporation is exercising a purely governmental function. So that however hazardous the employment may be, a police officer in the absence of special provision, is not entitled to compensation under a workmen's compensation act.

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BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

La Liberté politique en Allemagne et la Dynastie des Hohenzollern. By F. DE VISSCHER. (Paris. 1916.)

Belgium's Case. A Judicial Enquiry. By CH. DE VISSCHER. (London. 1916.)

Belgium and the Great Powers. Her Neutrality Explained and Vindicated. By EMILE WAXWEILER. (New York and London: G. F. Putnam's Sons. 1916. 186 pp.)

In his admirable book on the *Political Institutions of Contemporary Germany* published in 1915, Professor Barthélemy of the University of Paris stated thus the ideal of each of the three great peoples of occidental Europe: "Each nation has its ideal: for the Englishman, it is liberty; for the Frenchman, it is equality, jealous sister of liberty; for the Prussian, it is a disciplined state, hierarchial, strong." In his study of *Political Liberty in Germany and the Hohenzollern Dynasty,* M. F. de Visscher shows us how, ever since the time of Frederick William I, the kings of Prussia have succeeded in impressing such an ideal upon the peoples whom they have successively annexed to their kingdom, and how in the course of the nineteenth century they succeeded in repressing or turning aside the aspirations of their subjects toward political liberty. According to the Prussian conception, the state no longer appeared as a social organization intended to guarantee to individuals the free enjoyment of their rights, the free development of their faculties, to secure order, peace and prosperity for the people. The state is an end in itself; the individual man has no longer any rights in comparison with this new, all-powerful and jealous god; each man must subordinate, must sacrifice all his rights, all his faculties, all his interests to this god. The state alone proclaims and creates all rights, because it has force. Because it represents collective force, it can and should overpower and dominate the force of each individual.

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Evidently such a state is mainly upheld by a powerful military organization. The army is the first foundation of the Prussian state, the mainspring of its government. By its very nature it is the enemy of popular liberty, it is the docile instrument of the king, who believes that he is intrusted with a divine mission. M. de Visscher shows us, by means of a clear and convincing picture, how the Hohenzollerns have succeeded, by the support of a strong and loyal army, in disappointing and restraining the aspirations of the Germanic peoples towards liberty, in distorting the most precise terms of the constitution and so robbing them of all practical utility, how they have succeeded, in spite of representative assemblies and other liberal forms of government, in maintaining still "the divine right of kings." Of what value could be a constitution granted to the Prussian people by a king, Frederick William IV, who proclaimed solemnly a few months before he gave publicity to the announcement: "Being the heir to a crown which I have received intact, which it is my duty and my intention to leave intact to my successors, I will never permit a written paper to interpose, to play the rôle of a second providence, between God and this country, to govern us by means of its paragraphs and to substitute them for the sacred fidelity of ancient times." M. de Visscher gives some very curious and interesting details concerning this king's famous testament, which imposed upon his successors the obligation to abolish the Prussian constitution at the first favorable opportunity, and also concerning the destruction of this testament by the present King William II, who doubtless feared that his own imprudent and impulsive heir might some day undertake to realize the superannuated wish of his ancestors.

When, in August 1914, the chancellor of the German Empire announced in the Reichstag the violation of Belgian neutrality and the invasion of Belgium by Prussian troops, he doubtless believed that a prompt victory would cause the crime committed against a small and innocent nation to be quickly forgotten. He did not even try to justify or to excuse the act; he even fully admitted the crime and contented himself with affirming: Necessity knows no law. But the prompt victory has been delayed, for weeks, for months, for years, and Germany has felt the weight of the disapproval of all neutral nations. Therefore she began to seek justification and to make excuses. And, sadly enough, it is among German jurists that she has found the strongest and most unanimous support. One might have hoped and even believed, nevertheless, that if the sense of right and justice had not been wholly obliterated among the German people, it should have found

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expression among authorized interpreters of law. But those who knew the political history of Germany knew how vain and illusory was this hope; they knew that when Bismarck, violating the plainest articles of the Prussian constitution, governed four years without any budget having been voted by parliament, he was unanimously approved by all German jurists, who declared and attempted to prove that he had completely fulfilled his constitutional duties. Of this right of voting all the resources and all the expenses of the state, which is the basis and the guarantee of all parliamentary rights, the German jurists have made a purely administrative measure, intended merely to faciliatate the task of government. For them the refusal of the chambers to vote the budget does not compel the ministers either to resign or to change their politics; it merely complicates their administrative task a little, because with a regularly voted budget, they would only be obliged to prove, in the case of each expenditure, its conformity with the laws relating to the budget, while otherwise they would be obliged to show that such expenditure is necessary to the government and to the defense of this country, or that it is beneficial to the nation.

M. de Visscher has carefully brought together, set forth clearly and compared all these so numerous, diverse and often contradictory explanations. In a statement which is always clear and convincing, he neglects no arguments invented by the German jurists; always impartial, he presents them in all their force and in the most precise form he then proceeds to refute them step by step, with implacable logic and solid good sense, while preserving complete calm and incomparable courtesy throughout his critique. His book impresses us as a model of science and of legal discussion.

Among the best portions of this masterly work, may be noted the exposition and refutation of the theories of self defense and of *Notrecht* which the German jurists have chosen to apply to the German invasion of Belgium. The author shows us the great jurist Kohler, a man of world-wide reputation, proclaiming as a fundamental principle of international rights, the sole, unique right of force: "Where the ordinary rules of jurisprudence suggest no way of solving the problem; Law must bow before fact and side with the conqueror: *factum valet.*" Kohler sees only a conflict of interests between Belgium and Germany, and naturally for him the interests of Germany were more essential and important than those of Belgium. Not only does he admit Germany's right to invade Belgium, but he denies that Belgium had any right to resist the German ultimatum. Let no one say to him Belgium was

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prevented by considerations of honor and duty from helping Germany's attack on France; that is, he says, mere absurdity. He affirms that the Belgian statesman who refused to yield to the German demands have only one excuse: "They did not know our great, noble, unique Germany."

Such anarchistic principles will never obtain the support of the American jurists who at the last session of the American Institute of International Law (Washington, January 6, 1916) proclaimed the fundamental principle of international law: "Every nation has the right to exist, and to protect and to conserve its existence, but this right neither implies the right, nor justifies the act of the state to protect itself or to conserve its existence by the commission of unlawful acts against innocent and unoffending states." But Professor Kohler's mind was not to be changed by such a precise affirmation of justice and righteousness in international life; he has simply grown more angry with "those Americans who have never understood anything of the philosophy of law, ignorant men and babblers of all sorts who have dared to attack Germany."

The director of the Library Institute of Sociology of Brussels, who was so unfortunately killed by a motor-truck in London, had already in 1915 in his first work, *Belgium Neutral and Loyal*, avenged the good faith and sincerity of his country against the calumnious imputations of the German pamphleteers. In this second book he undertakes to answer a new reproach addressed to Belgium, whose resistance, some Germans say, is incomprehensible from the standpoint of a wise policy; the author does not insist any more upon the duty which Belgium had assured towards all the Great Powers to defend her neutrality, but he points out that the refusal of Germany's demands was in perfect accord with the true tradition of her foreign policy. When he again proves the falsehood of the persistent accusation that Belgium resisted because she was already pledged to England, he does not neglect any of the futile incidents, of the discredited stories, reported by the German papers as proofs of the connivance of the Belgian government with England or France, but he discusses at length all the arguments which the German publicists have tried to draw out of the famous document relating the conversations between two Belgian generals and the military attachés of England. The third part of the present book is consecrated to the refutation of an objection which German authors insisted upon recently, i. e., Belgium was not called upon to resist, for her territory was not inviolable. Mr. Waxweiler has no

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difficulty in proving the inconsistency of that thesis, as well with the historical facts as with the independence and permanent neutrality of Belgium.

That last book of the most regretted Waxweiler offers all the best qualities of all his scientific works: a complete and thorough knowledge of the facts, a sound and sure erudition, a clear, precise and calm presentation of the arguments which does not leave unanswered any objection, so futile or trifling it may appear, which confutes with equal patience subtle tricks and serious reasonings.

LÉON DUPRIÉZ.

University of Louvain.

The Chartist Movement in its Social and Economic Aspects. By FRANK F. ROSENBLATT. Pp. 248.

The Decline of the Chartist Movement. By PRESTON WILLIAM SLOSSON. Pp. 216.

Chartism and the Churches. A study in Democracy. By HAROLD UNDERWOOD FAULKNER. Pp. 152.

Studies in History, Economics and Public Law, edited by the Faculty of Political Science of Columbia University. Whole Numbers 171, 172 and 173. (New York: The Columbia University Press. 1916.)

The titles of these three studies of the Chartist movement are placed here in the order in which they were issued, and not in the order of their importance. Each of them is of distinct value to students of political movements in England in the nineteenth century. They are all of value, if for no other reason than that until these three studies were published there was in the English language no comprehensive or scholarly history of the movement of 1837–1854—one of the most remarkable working-class, political and economic movements in the English-speaking world, and a movement that in its indirect results enormously and beneficently influenced industrial and social life in England in the sixty years that preceded the great war. For some unexplained reason Chartism has never seemed an attractive subject with English writers on political movements in the nineteenth century. Unlike the trade union and the socialist movements of the years from 1868 to 1914, it

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achieved no parliamentary successes; for Fergus O'Connor's short and ill-starred tenure of a seat in the house of commons could scarcely be claimed as a success for the Chartist movement, and on the English statute book today there is not a single enactment of which it can be said that it was passed by parliament at the instance of the Chartists. But there can be no complete understanding of the unbroken success of the trade union movement, the coöperative movement, and the friendly societies movement in England, or even a full realization of the causes which have combined to give England the most politically independent and the best politically educated working-class of any country in the world, without some knowledge of the Chartist movement, of the type of men who were its leaders, and of the influences—political, social and industrial—that were bred of the long working-class agitation of the middle years of the nineteenth century.

For this reason all these studies will be welcomed wherever English political and social history is systematically studied. The order in which the books have been named is not, however, the order of their respective value. First place must be given to Mr. Slosson's study of the decline of the movement; second place to Mr. Faulkner's *Chartism and the Churches;* and the third place assigned to Mr. Rosenblatt's study of the social and economic aspects of the Chartist movement. Mr. Rosenblatt's book, in fact, falls into the third place almost as a matter of course; because for reasons quite beyond his control the book is incomplete. It is carried down only to the Newport riots of 1839, thus covering only two years of the movement. His exposition of the causes behind the Chartist movement is marred in places by inexactness of statement, and a tendency to exaggeration in language out of harmony with a scholarly presentation of historical facts.

Mr. Slosson's book covers the entire movement, and is particularly of value as regards the treatment of the causes which led to the decline of the movement, and for its examination of some of the distinctly beneficent results that indirectly accrued to the working classes in England from a movement that many students of English history are inclined to regard as a complete failure. If it had stood alone—if it had not been accompanied by Mr. Rosenblatt's book, and Mr. Faulkner's study of the attitude of the churches towards Chartism and also of the attitude of the Chartists towards the Established Church—Mr. Slosson's well-written and admirably arranged monograph would have filled the hiatus in the literature of political movements in England in the nineteenth century that had existed for nearly sixty years.

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The title of Mr. Faulkner's book almost sufficiently attests its value, because it at once suggests an aspect of the Chartist movement to which no attention had previously been given by writers on Chartism or by English general historians or historians of the established and free churches in England and Scotland. It was a fortunate choice of subject by Mr. Faulkner, who may be congratulated not only on his recognition of the interest and permanent value attaching to a study of the attitude of the churches towards Chartism but also on the success with which he has worked an hitherto unexplored vein in the history of England in the nineteenth century.

EDWARD PORRITT.

Hartford, Conn.

Political Thought in England: The Utilitarians. From Bentham to J. S. Mill. By WILLIAM L. DAVIDSON. (New York: Henry Holt and Company. 1913. Pp. 256.)

Political Thought in England: From Herbert Spencer to the Present Day. By ERNEST BARKER. (New York: Henry Holt and Company. 1915. Pp. 256.)

These two excellent volumes of the "Home University Library" are welcome additions to the extremely meagre literature dealing with the development of nineteenth century political philosophy. The first volume discusses the life and writings of Bentham, James Mill, John Stuart Mill, Grote, Bain, and Austin. The author points out the fact that utilitarianism is not a well rounded system, but rather a point of view, and that marked differences may be found among its upholders, especially in the writings of Bentham and of J. S. Mill. The connection between utilitarian political philosophy and associationism in psychology is emphasized, as is the essentially practical nature of the utilitarian position. It is not merely a philosophical theory of pleasure and pain, nor an abstract ethical theory concerning the greatest welfare of the greatest number, but it enters the realm of politics and attempts to carry out its doctrines in legislation along political and economic lines. With the exception of Austin, who opposed democracy and parliamentary reform, the utilitarian writers advocated liberal measures and belonged to the group of "philosophical radicals." They contributed much to the beneficent legislation of the past century and their point of view still furnishes the basis for much present-day social

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and political action, although the individualistic doctrines which J. S. Mill in particular upheld are no longer tenable. From the point of view of political theory, the utilitarians contributed much in destroying the doctrines of natural rights and social contract, upon which democracy and reform had previously been based.

The second volume ranges over a wider field and takes a somewhat broader point of view. It attempts to give a general survey of the development of English political thought since 1848, and refers briefly to the writings of about fifty men. Their ideas are classified into several general groups. First, the ethical-idealists, of whom T. H. Green, Bradley, and Bosanquet were the leaders, are considered. This group drew its inspiration from Kant and Hegel, and ultimately from the Greek philosophy of the city state. Its chief contribution consisted in reviewing the idea of the dependence of the individual for his rights and his liberty upon the community. The previous doctrine of individualism had proved destructive to real liberty in the rapidly changing economic world, and this emphasis on the moral betterment of the whole social organization was needed as a basis for further progress.

A second school was influenced chiefly by the scientific advance in physics and biology, and attempted to apply the doctrine of evolution to political institutions. Of this group Spencer was the chief representative, and the organic theory of the state resulted. The author shows the inherent contradiction between Spencer's theory of the organic and evolutionary nature of the state and his belief in natural rights and individualism. The author also points out that Spencer's belief in individual liberty, his fine air of unbending justice, his apparently scientific method, and his facile terminology made him popular in England, and that "on the assumption that a nation deserves the political theory it gets, England deserved Spencer." Huxley, Kidd, and Buckle also attempted to apply the teaching of science to society.

Another group turned to psychology for the explanation of the state as an association of minds. Bagehot, Graham Wallas, and MacDougall represent this school. The historical method, borrowed from Germany, was also applied to political theory, especially to the development of law, as a reaction to the rigid Austinian theory. Maine, Seeley, Freeman, Dicey and Maitland are among the distinguished scholars that were interested in the historical and comparative aspects of political development. Among the great writers of English literature during this period, Carlyle, Ruskin, and Arnold dealt incidentally

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with political philosophy. All were opposed to the anarchy of laissez-faire, and lacked confidence in democracy. Men preached the doctrine of government regulation and the rule of an aristocracy of intellect.

The final section deals with recent socialistic tendencies. The influence of economic conditions on the change in attitude toward governmental function, and the shift in the natural rights position, formerly the upholder of liberal ideals against an autocratic government, now the bulwark of conservatism against state control of vested property interests, is clearly brought out. On the controversy between individualism and socialism, the writings of MacKechnie, Montague, Sidgwick, the Webbs, Wells, Hobhouse, and Mallock are among those mentioned. Especially valuable is the treatment of the recent development of syndicalism and guild socialism, and of the idea of federalism in a socialistic state, which plays a large part in present English political thought. All reference to the theory of international relations is studiously omitted, save for a brief criticism of Norman Angell's doctrine of internationalism based on financial interdependence.

Like most of the volumes in this series, these books are well planned and clearly and concisely written. Mr. Barker's book, indeed, attains distinction in style. Brief, but well-chosen and classified bibliographies are appended.

RAYMOND GARFIELD GETTELL.

Amherst College.

State Government in the United States. By ARTHUR N. HOLCOMBE. (New York: The Macmillan Company. 1916. Pp. xiii, 498.)

American state government offers a fruitful field for the comparative study of political institutions. Forty-eight autonomous states, each working out its own salvation under the general limitations of the Constitution of the United States, furnish an abundant supply of political experiments, which, carefully observed and analyzed, should aid in developing a science of government as well as in solving some of its practical problems. But hitherto there has been no serious attempt at a comprehensive investigation of this important field.

Professor Holcombe has undertaken a general survey of the development and working of American state government, including an analysis of the underlying political philosophy, the organization and operation of governmental agencies, and some recent proposals for further

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reform. About one-third of the book is given to historical development, and two-thirds to the working of the present system. The work shows a careful study of the great mass of material and a systematic organization of the data, forming the most important single contribution thus far made to the whole subject.

The book is both descriptive and critical; and the criticism presents both sides of controverted questions. This does not mean that Mr. Holcombe always takes a position of impartial neutrality. It is not difficult to see that he believes in a strong national government and in woman suffrage; and some will disagree with him on these and some other questions. On the other hand there are some matters where he is less definite, especially in regard to constructive proposals.

About equal space is devoted to two main divisions of the general subject: the extent and methods of popular control, and the organization of the government and division of powers. This means that nearly half of the book is devoted to such matters as the electoral franchise, political parties, the conduct of elections and direct legislation; and such topics are discussed more at length than the organization and procedure of constitutional conventions and state legislatures, or the state administration and judiciary. The consideration given to the legislatures and the ordinary work of judicial administration is distinctly less than might have been expected. Local government is entirely omitted.

Geographical environment has influenced the author to some extent. The index shows that Massachusetts is more frequently referred to than any other state. New York is a close second; but no other state has half as many references. The smaller New England states are mentioned as frequently as many of the larger states in other parts of the country. Least attention is given to the southern states. There seems to be no mention of the Virginia bill of rights of 1776; and there are only two references to Texas.

In a work of this kind some errors of detail are almost inevitable. One case seems to call for notice. The author has been misled by the careless editing of Thorpe's collection of state constitutions into the mis-statement that New Jersey first provided for the governor's veto of appropriation items in 1844, when this provision was not adopted by New Jersey until 1875.

The final chapter on the reform of state government deals with the commission plan, the socialist program, the Oregon proposals, as well as the plans for administrative reorganization in the proposed New

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York constitution of 1915 and the recommendations of efficiency and economy commissions in a number of states. The author favors the reorganization of and additional checks on the legislature, further strengthening of the executive and judiciary, and a readjustment of the relations between the three departments. But he does not present any definite program of proposed changes.

JOHN A. FAIRLIE.

University of Illinois.

Principles of American State Administration. By JOHN M. MATHEWS. (New York: D. Appleton and Company. 1917. Pp. xiv, 534.)

The distinction between politics and administration, which President Goodnow has done so much to introduce into American political science, is accepted by Professor Mathews. The present volume, however, does not attempt to cover the whole field of administration as thus defined. Administration, broadly speaking, falls in this country into two divisions. One division is concerned exclusively with the administration of justice. The other must consider expediency as well as justice. Officers entrusted with the execution of the laws consequently may be further distinguished as administrative officers in the narrower sense of the term and judicial officers. Professor Mathews devotes his attention almost entirely to the former. One part of his book, occupying two-fifths of the volume, treats of the organization of the executive branch of the state government. The remainder of the volume is mainly devoted to a description and criticism of the work of the principal administrative departments.

No attempt has been made, as the author avows in his preface, to describe exhaustively all the multifarious activities of the states. Such a task would require far more space than is available within the limits of a single volume. Professor Mathews' aim has been rather to select for description those services which appear most to deserve attention, either because of their intrinsic importance or because of their suitability for illustrating the general principles of state administration. The services actually selected are taxation and finance, education, charities and corrections, public health, and the enforcement of law. What the author describes as the newer functions of the states, such as the control of corporations, the regulations of public utilities, labor legislation, the promotion of agriculture, and the construction

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of roads and other works of internal improvement, receive comparatively brief notice. The part played by the judiciary in the administration of justice is also noticed briefly.

The work is based upon a broad acquaintance with the primary sources of information. Such secondary sources as the excellent report of the Illinois Efficiency and Economy Committee are also used freely and with good effect. There is no single volume which brings together so much first-hand material concerning the structure and functions of the state executive departments. The facts are well-chosen and effectively presented. The treatment of the office of governor is especially detailed and judicious. The author necessarily treads frequently on controversial ground. His discussion of open questions is always suggestive, though it is not to be expected that the reader will accept all his conclusions. On some points, indeed, Professor Mathews seems to have aimed rather at provoking independent thought than at securing agreement with his own views. An example of this is his statement (p. 466) that "the right to trial by a jury of the vicinage is an ancient and immemorial right, held in just veneration by many persons, especially criminal lawyers, but it has now practically outlived its usefulness." In general, however, the reader cannot fail to be impressed by the array of evidence which he cites in support of his judgments.

This book will be of great service to university teachers of government and ought also to help promote the spread of sound ideas concerning administrative organization and methods among the general public. The author is a strong advocate of a simpler, more coherent, and better integrated administrative system. He clearly indicates the necessity for an organization of administration which will diminish the opportunity for legislative and judicial interference in administrative affairs. It may be regretted that more space was not available for the elaboration of his own ideas on administrative reform and reorganization, though it must be recognized that the reorganization of administration, in the broader sense of the term, is dependent in part on the reform of the judiciary as well as on that of the executive branch of state government. Within the limits which the author has set for his work, however, he has made a substantial contribution to the body of knowledge concerning the practice of state government.

A. N. Holcombe.

Harvard University.

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Statute Law-Making in Iowa. Edited by Benjamin F. Shambaugh. Applied History, volume III. (Iowa City, Iowa. 1916. The State Historical Society of Iowa. Pp. xviii, 718.)

Despite the rather dubious title of the series in which this volume is published, students in political science cannot fail to recognize the value of such a work as *Statute Law-Making in Iowa.* It is the most extensive and in many respects the most satisfactory study in the field that has yet appeared in this country. Its timeliness is beyond question. There are nine monographs in the volume, seven authors coöperating in the work. The following list of monograph titles will indicate the contents of the volume: History and Organization of the Legislature in Iowa, by John E. Briggs; Law-making Powers of the Legislature in Iowa, by Benj. F. Shambaugh; Methods of Statute Law-making in Iowa, by O. K. Patton; Form and Language of Statutes in Iowa, by Jacob Van der Zee; Codification of Statute Law in Iowa, by Dan E. Clark; Interpretation and Construction of Statutes in Iowa, by O. K. Patton; The Drafting of Statutes, by Jacob Van der Zee; The Committee System, by Frank E. Horack; Some Abuses Connected with Statute Law-making, by Ivan L. Pollock.

In addition to the above there is an introduction by the editor and a thorough index of 27 pages. Copious notes and references appear at the end of each monograph, and evident care has been taken in the citations. The editorial supervision has been commendable and effective. There is practically no duplication of material, and cross references are supplied where necessary. In spite of the number of coöperators the volume is singularly successful in conveying its evident unity of purpose and plan.

Strictly speaking these monographs are not a part of the "literature of reform," a distinction which is evident from the elevation and tone of the entire volume. Not that ugly facts and details are overlooked or suppressed, but there is a balancing of the workings of the legislative machinery which seeks to avoid the over emphasis of the evil results at the expense of the good or satisfactory ones. Notwithstanding the care and restraint which are thus apparent in the productions one cannot escape the impression that the authors have had in mind something more than a critical analysis of the agencies and processes which function in law-making. The work as a whole and in its several parts definitely seeks to point the way toward certain reforms in the adoption of which Iowa has lagged somewhat behind many states of the Union. For example, in the monograph on the

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drafting of statutes there is at the close a strong plea that provision be made for expert draftmanship in law-making, a step which the Iowa assembly has thus far refused to take.

To the credit of the authors it should be said that the volume as a whole should make attractive and interesting reading for a large constituency in the state which fostered its production. Technical terms are carefully and clearly explained, and there is nothing in the book that any citizen with a reasonable degree of intelligence and industry could not comprehend. The volume should prove exceptionally useful to inexperienced members of future legislatures, and merits a wide distribution among such individuals in other states than Iowa.

In general the conclusions which are reached are sound. They represent the accumulated wisdom and experience of those who have been concerned with the constitutional, technical, and procedural aspects of legislation; though it can hardly be said that profundity and originality are features of the work. In a day when the functions and principles of sound legislation are so widely abused or ignored, it is disappointing that a work of this magnitude should have omitted their consideration, and a study of the extent to which they have been recognized or perverted in Iowa. A sorry awakening will some day be due the commonwealth which perfects the technical and procedural phases incidental to statute law-making unless there is at the same time a vigorous effort to search out and establish in statute law-making those principles which will enable legislation to function properly when in force. Far too large a proportion of our law-makers and of our citizens are as ignorant, if not more so, in respect to these matters as they are of the mechanics of statute law-making.

It is to be hoped, however, that the achievement of the Iowa investigators will stimulate studies of similar character and dignity in other states. *Statute Law-Making in Iowa* has set a high standard and will be an invaluable aid in the prosecution of like enterprises.

RUSSELL MCCULLOCH STORY.

University of Illinois.

The Mississippi Valley in British Politics. A Study of the Trade, Land Speculation, and Experiments in Imperialism Culminating in the American Revolution. By CLARENCE W. ALVORD. Two volumes. (Cleveland: The Arthur H. Clark Company. 1917. Pp. 358, 396.)

In 1908 the Justin Winsor prize of the American Historical Association was awarded to Mr. Clarence E. Carter for a monograph entitled

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"Great Britain and the Illinois Country, 1763–1774." In later years Mr. Carter and Professor Alvord collaborated in the publication, in the Illinois Historical Collections, of two volumes of important British documents relating to the Illinois country in the period 1763–1767. Finally, Professor Alvord has given us a mature study of British policy in the Mississippi Valley as a whole in the years 1763–1774.

The present work is wisely planned and well executed. The author has resisted the temptation to fill pages ostensibly devoted to British policy with matter pertaining essentially to general American history or to local western history. He sets out to describe the tortuous dealings of the successive ministries at London with the affairs of the American West, and he holds faithfully to this task. Furthermore, the book is based largely upon painstaking use of manuscript material, much of it here laid under contribution for the first time. The Lansdowne and Dartmouth manuscripts, in particular, have yielded richly. Absolute exhaustiveness is not avowed. But there is small reason to suppose that further documents of importance will be brought to light.

Professor Alvord's volumes will prove of interest to at least four groups of persons. Students of the history and problems of colonial administration will find in them a detailed treatise on a chapter of vacillating but singularly fruitful British colonial experimentation. Persons interested in British political history will find a reasonably full and discerning analysis of the party and factional politics of the epoch of the breakdown of Whig domination. Persons who seek a corrective on that treatment of pre-Revolutionary American history which fixes the attention upon the performances of the "madding crowd" of New York and Boston, to the exclusion of things transmontane, will find it here. Plans for the West, Professor Alvord maintains, rather than plans for the East, formed in the period in hand the "warp and woof" of British imperial policy; and the book is chiefly notable for its stress upon this contention. Finally, for students of western history the work has much illuminating interpretation.

The conclusions to which Professor Alvord comes concerning the British colonial politics of the period, though in no wise startling, are of interest. No one has supposed that the ministries of Bute, Grenville, and most of their successors to 1775 were capable of framing and enforcing an enlightened and consistent plan of action in the least known part of the American dominion. Professor Alvord, however, goes so far as to maintain that the controversies relating to American affairs were shaped almost entirely by prejudices and factional inter-

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ests and involved little or no trace of principle. Only at the hands of Chatham and his idealist supporters, he says, did the conception of empire find expression in terms other than those of sordidness and pettiness. It is therefore a drab picture that he feels compelled to paint, and the reader comes off with impression confirmed that the British loss of the American possessions was the penalty of stupidity fairly incredible.

The positions taken are buttressed impressively with documentary citations; and there are two extensive bibliographies—one on general lines, the other bringing together for the first time sixty-five titles relating to the "pamphlet warfare" waged in England in 1759–1763 upon the question of the cessions in America to be demanded of France at the close of the Seven Years' War. The author's style is satisfactory, though lacking in elements of distinction.

FREDERIC AUSTIN OGG.

University of Wisconsin.

Jeffersonian Democracy in New England. By WILLIAM A. ROBINSON, Ph.D. (New Haven: Yale University Press. 1916. Pp. vi, 170.)

Professor Robinson's essay, evidently begun as a doctoral dissertation, won the John Addison Porter Prize given in 1913 by Yale University. It is exactly what it purports to be—an essay, admirable in form, logical in arrangement, but necessarily limited in scope. Beginning with a chapter on the political conditions in New England from 1789 to 1797, the growth of republicanism from being a matter of opinion to forming the basis of definite party organization, the Federalist reaction from 1808 to 1815, and the development of "the party basis," are taken up in successive chapters. Then follows a brief treatment of "republicanism and religious liberty," a few pages on "the national significance of New England republicanism," and an appendix on "party distribution" with eight illuminating maps. A critical bibliography and a good index supply the apparatus for making the book especially usable.

The essay certainly has its place in the political history of the United States, for as Professor Robinson states in his preface: "The New England branch of Thomas Jefferson's party had certain disadvantages. Its opponent was the party of wealth and culture whose members wrote the great controversial papers, delivered the memorable orations,

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and edited the ablest newspapers and pamphlets of the day. It had few leaders of outstanding ability and personality to interest the biographer. Furthermore the bitter partisanship of the age has in some cases passed into subsequent histories and biographies, with advantages to the Federalists. Nevertheless, the New England Republicans performed important services, both local and national, in a period full of domestic and foreign difficulties." By the skillful use of pamphlet and newspaper material, of memoirs and letters, of biographies and special histories, the author has made a clear and vivid picture of the development of the minority party, and of its determined and consistent stand from 1800 to 1815 as "essentially the party of union and nationalism."

The weakest chapters are those on "republicanism and religious liberty," and on "the national significance of New England republicanism." Here the canvas is too small; the picture lacks perspective and high lights. Nevertheless some historian writing the history of New England will find in this essay ready to his hand a scholarly monograph on one important phase of his subject.

LOIS KIMBALL MATHEWS.

University of Wisconsin.

The Government of the Philippine Islands: Its Development and Fundamentals. By GEORGE A. MALCOLM, Professor of Public Law and Dean of the College of Law in the University of the Philippines. (Rochester, N. Y.: The Lawyers Coöperative Publishing Company. 1916.)

This work contains much valuable material for the student of Philippine government; but between the reader and his goal Professor Malcolm has interposed the most formidable obstacles. The reviewer has never held in his hand a book in which so much industry has been rendered sterile by such an amazing combination of faulty arrangement and bad English.

The volume runs to 784 pages, and it is encumbered by no less than 1666 footnotes. The extent to which the notes encroach upon the text may be gathered from two instances: on the seven pages 78 to 84 there are thirty-eight lines of text and two hundred and forty-five lines of notes; on the nine pages 472 to 480, forty-one lines of text are supported by three hundred and twenty-eight lines of notes. Although some of the footnotes serve to clarify the text, most of them are

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either mere extensions of the text or substitutes for a willingness on Professor Malcolm's part to accept responsibility for any statement of fact or expression of opinion. The most amusing example of the author's need for legal support is to be found on page 629, where the author quotes the well-known lines beginning "who steals my purse steals trash." At the end of the quotation is a reference to a note which reads, "Quoted by Judge Jenkins in Worcester v. Ocampo (1912) 22 Phil. 42, 73." This is probably the first time any man has found it necessary to furnish a legal vindication of his right to quote Shakespeare.

One would be prepared to forgive much in Professor Malcolm's volume were it not that the dean of the College of Law in the University of the Philippines has offered his students some of the worst English we have ever seen in print—a vernacular whose only analogue is that of Hurree Chunder Muckerjee. In support of this hard saying the following quotations are offered:

"Not without regret, is Dr. Johnson's statement in the preface to his dictionary here true, which it will be remembered he said 'would in time be ended though not completed' " (preface, p. vii). "So long as the imperfections of mankind necessitate the overlordship of commands . . ." (p. 434); "It is not only advisable but necessary to possess an understandable acquaintance of the political institutions of one's native land" (p. 24). "We need not linger to approximate exact definitions. . . . ." (p. 704).

For this kind of writing it may be assumed that Professor Malcolm has drawn upon his own resources; but there are many occasions on which the printer and the proof-reader have come to his aid. Of these the most striking examples are references to "wielding" the Philippines into a nation, and to a time when commentaries on the Philippine constitution shall be "indicted."

In the preface to this volume the author says: "For a number of years, I have valiantly resisted the temptation to write a book on the Philippines." It is much to be regretted that, finally, his valor should have outrun his discretion.

ALLEYNE IRELAND.

Boston.

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Political Frontiers and Boundary Making. By Col. Sir Thomas H. Holdich. (London: Macmillan and Company. 1916. Pp. xi, 307.)

There is always danger when the technical expert in problems of governmental administration undertakes to enter the field of statesmanship and determine the policies upon which those problems are based. The present volume is the contribution of an expert boundary marker to the statesman's problem of determining the desirable boundary. The author has served for many years with distinction in the service of Great Britain in the determination of boundaries in India and the adjoining countries, and was a member of the Argentine-Chilean boundary commission. His concept of an ideal political boundary is in consequence influenced by his official duty of securing for his country the best strategic boundary. He believes that "the first and greatest object of a national frontier is to ensure peace and good will between contiguous peoples by putting a definite edge to the national political horizon, so as to limit unauthorized expansion and trespass," and on the basis of this thesis he undertakes to show what is the nature of a frontier which "best fulfills these conditions in practice."

It is with the major premise that most readers of the volume will be tempted to quarrel. If we have abandoned all hope of coöperation in the future between the nations now at war, if we believe that man will continue to remain "so little removed from the primitive stage" as the author now finds him to be, then we shall doubtless agree that it is necessary to separate nations "by a barrier as effective as nature and art can make it." If on the other hand we still have faith in the possibility of a future world peace based upon a better understanding of one another by the peoples of the various nations and a more complete democratic control by these same peoples over their governing agencies, then instead of making boundaries barriers of isolation we shall be ready to agree with Mr. Lyde when in his volume, *Some Frontiers of Tomorrow,* he holds that where frontiers are not clearly defined along national lines they should be assimilative, and that they should be everywhere anti-defensive, i. e., they should be identified by geographic features which tend to promote peaceful intercourse. The author, of course, is insistent upon the principle that territorial boundaries must as far as possible coincide with the wishes of the people included within them, but this principle is secondary to the creation of a barrier between state and state. Better for Roumania to abandon any claims to Bu-

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kowina than to shift its boundary "from a good defensible one to a bad one."

Apart from the particular theory upon which the volume rests there is much that is of value in the author's description of the geographic features of boundary lines, and the chapters upon the delimitation of frontiers in Asia, Africa and South America will be read with particular interest.

C. G. FENWICK.

Bryn Mawr College.

A Political and Social History of Modern Europe. By CARLTON J. H. HAYES, Associate Professor of History in Columbia University, two volumes. (New York: The Macmillan Company. 1916.)

The first volume offers an excellent summary of three centuries (1500–1815) in a volume of 597 pages; while the entire second volume of 767 pages is devoted to the period since 1815. The theory of the economic interpretation of history is, of course, accepted, but it is used with moderation. There are special chapters on the commercial revolution, the culture of the sixteenth century, society in the eighteenth century, the industrial revolution, and social factors in recent European history, 1871–1914, while the whole work is based upon the idea that "the rise of the bourgeoisie is the great central theme of modern history." Other interesting features are the very full discussion of the Eastern question and the expansion of Europe into Asia, Africa, and America.

In thus expanding the traditional field of the textbook in modern history Professor Hayes has had to face what he calls "the eternal problem of selection." On the whole his solution is excellent. The Protestant revolt and the rationalistic movement of the eighteenth century might perhaps have received a little more attention, although it would have required the elimination of other material which is equally important. These difficulties could have been avoided by making the first volume as large as the second, or by selecting 1789 instead of 1815 as the divisional date. But this is only a minor criticism. The book is interesting and scholarly, and it can be highly recommended either to the general reader or to the teacher in search of a textbook. There are thirty-eight maps and a number of genealogical tables and lists of rules, and at the end of each chapter there is a good working

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bibliography. Each volume has its own index and may be used separately.

W. Roy Smith.

Modern Currency Reforms. By Edwin Walter Kemmerer. (New York: The Macmillan Company. Pp. xxi, 564.)

Either publisher or author deserves censure for the title given to Professor Kemmerer's book on currency reform in India, Porto Rico, the Philippines, the Straits Settlements and Mexico. To name the book *Modern Currency Reforms* is almost certain to sell it to many an unwary *emptor* who will buy it under the impression that he is adding to his library an authoritative treatment of recent currency reform in the United States. By the title the present reviewer was inveigled to his task. The sub-title and the explanatory note on the jacket of the book both define the contents, but does any one read or see these until he has his copy?

Barring the title, the book is quite satisfactory, from table of contents to index, both inclusive. Within the 552 pages of text, the author gives a clear, adequate, and thoroughly documented account of the currency reforms achieved during the past quarter century in the backwater communities named above. No man, surely, is better fitted than Professor Kemmerer to write such an account. The author himself made so much of the history here chronicled that his book must have for every reader an unusual quality of finality.

There is a large common factor in the currency problems that had to be solved in all the communities with which the book deals, the transition from a silver to a gold basis, the uncertainty and fluctuation of exchange rates, questions of international trade, the problem of the redemption rate for the older currency. The development and application of similar principles and practices, the establishing and verifying of a standard formula for the solution of the problem, these will be for most readers the central interest and chief value of the study.

Nevertheless, *Modern Currency Reforms*, contrary to the implication of its title, is not adapted to use as a textbook for American college classes.

George Ray Wicker.

Dartmouth College.

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Government Telephones, The Experience of Manitoba, Canada. By JAMES MAVOR. (New York: Moffatt, Yard and Company. 1916. Pp. viii, 176.)

The policy of public ownership of telephones was adopted in Manitoba ten years ago. Previously the telephone service in Manitoba had been monopolized by the Bell Telephone Company. The promises of improved service at lower rates, by means of which the people were induced to sanction the policy of public ownership, bear a striking resemblance to those which used to fill the prospectuses, once so familiar to Americans, of the numerous so-called "home telephone" or independent companies, organized to compete with the "Bell." The results in both cases were much the same. As the president of the American Telephone and Telegraph Company, speaking of the American independent companies, justly observes in his latest annual report (Report for 1916, p. 50), "There is hardly one of these now in operation whose average book cost is not higher than that of the Bell system, whose rates are not higher than originally promised, and which has not frankly conceded that business cannot be maintained on the terms and conditions of its prospectuses." The same statement can be made with respect to the Manitoba government telephone. Eventually the provincial government, like the wiser American independents, learned the importance of making proper allowances for depreciation and put its undertaking on a sounder business basis than that adopted at the beginning. It is not surprising, considering the general public misunderstanding of the true nature of the telephone business at that time, both in Canada and in the United States, that the provincial government had to learn by experience how to manage the telephone business. It might perhaps have been expected that the governmental system would have made a better showing than the American independent systems, since the government acquired a going concern from the Bell Company, possessed a monopoly within the limits of the province, and hence enjoyed a freer hand in the development of its policies than was possible to the American independents under highly competitive conditions. Indeed the record of the Manitoba government telephone administration does compare favorably with that of many, perhaps most, of the American independent companies. But this aspect of the matter is not considered in Professor Mavor's recent volume.

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His book is confined almost altogether to the history of the Manitoba government telephones. It "purports to set forth statements of fact readily susceptible of confirmation." It undoubtedly does this, and the effect is, and, judging from the tone of the author's introduction, was intended to be, a scathing indictment of the conduct of the telephone business by the provincial government. The author desires that the book be judged, however, "not as an attack upon the Manitoba government nor upon its administration of the telephone system, but as a critical narative of historical facts written from a point of view as impartial as possible." (Preface, p. vii.)

After a careful examination of the volume, nevertheless, the reviewer is compelled to judge it as an attack upon the Manitoba telephone system rather than as an impartial essay in political science. One example of the author's method will serve as well as many. On pages 147–148, he cites the figures of comparative telephone development in Manitoba and in several American states to show that the development is less in Manitoba under public ownership than in the United States under private owership. Such statistics, he concludes, "effectually dispose of any contention that unrestricted private enterprise could not, and would not, have secured in Manitoba as great a degree of telephone development as has been secured under government control." From these figures it appears, for example, that the development in Manitoba in 1914 was 95 telephones per 1000 population, whilst in Iowa in 1912 it was 171 telephones per 1000 population. But in North Dakota which is not mentioned by Professor Mavor and where general conditions more closely resemble those in Manitoba than do those in any of the states cited by him, the development in 1912 was only 81 telephones per 1000 population. Moreover in 1907, when the telephone had just passed from private to public ownership in Manitoba, the development in the province was 42 telephones per 1000 population, whilst at the same time in North Dakota it was 70 and in Iowa, 151. In 1902, five years earlier, when there was no more thought of public ownership in the province than in the states, the development in Manitoba was 18, in North Dakota, 20, and in Iowa, 60 per 1000 population. All these figures are taken from sources cited by Professor Mavor himself or readily accessible to him. In view of the fact that he cites only the figures most favorable to his contention, and neglects to mention the others, it is hard to avoid the conclusion that he is more interested in making out his case against public ownership than in making known the whole truth. In short the book as a whole, re-

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garded as an argument against public ownership, is unconvincing; but it is not without value as a record of certain mistakes which governmental telephone administrations, like private companies, would do well to avoid.

A. N. Holcombe.

Harvard University

MINOR NOTICES

The Military and Colonial Policy of the United States by Elihu Root (Cambridge: Harvard University Press, 1916, pp. 502), is one of a series of volumes containing the state papers and addresses of Senator Root, and is largely confined to the period while Mr. Root was secretary of war following the war of 1898. The selections illustrate Mr. Root both as a politician and as an administrator. The first part includes addresses of a popular or after dinner variety calculated to win general support for the administration in its colonial and military policies, denounced by its opponents as imperialism; while the second part consists largely of extracts from Mr. Root's reports as secretary of war and indicates the practical problems of administration in carrying out colonial government and in bringing about an efficient organization of the army. In the latter connection Mr. Root's part in the reorganization of the militia and the creation of the general staff and army war college is well illustrated. One of the most interesting chapters is that dealing with the Boxer troubles in China and the voluntary return of the Boxer indemnity by the United States.

The editors, J. B. Scott and Robert Bacon, have increased the value of the book by prefacing each article with a note giving its historical setting, and inserting relevant documents such as the protocols and treaties concluding the war with Spain, the instructions for the military government of the Philippines, the militia act of 1903, etc. There is also an index of some value.

In view of the present agitation for preparedness the book is very timely as presenting the opinion over a period of sixteen years of the man probably best qualified to talk of the military problems of the United States.

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Just what a social survey is, how it is brought about and what ought to follow—and what does follow—are stated in a recently published pamphlet entitled, *Community Action Through Surveys*, prepared by Shelby M. Harrison of the department of surveys and exhibits, Russell Sage Foundation (New York, 1916). The pamphlet presents a list of the specific developments following the publication of the findings and recommendations of surveys made in Pittsburgh, Newburgh, Topeka and Springfield, Ill. The social or community survey is described as an important "means to a better democracy." The survey is shown to serve this end by "informing the community upon community matters, and thereby providing a basis for intelligent public opinion." To sum up the survey in a few sentences, "it is an implement for more intelligent democracy, its chief features or characteristics being: the careful investigation, analysis, and interpretation of the facts of social problems; the recommendation and outlining of action based on the facts; and the acquainting and educating of the community not only to conditions found but to the corrective and preventive measures to be adopted. The survey lays emphasis, moreover, upon the importance of studying problems in their various community-wide relations and urges coöperative action on a community-wide basis. It deals with the whole district and endeavors to lead individuals to think in terms of the whole. It is the application of scientific method to the study and solution of social problems, which have specific geographical limits and bearings, plus such a spreading of its facts and recommendations as will make them, as far as possible, the common knowledge of the community and a force for intelligent coördinated action."

President Wilson's appeal for early enactment into law of a bill providing for the promotion of vocational and industrial education will give additional value to the volume entitled *Learning to Earn, a Plea and a Plan for Vocational Education*, by John A. Lapp and Carl H. Mate (Indianapolis: Bobbs-Merrill Company, 1915, pp. 421). The authors analyze the failure of our present education to meet the living needs of every day life, and they offer a definite plan of an education for all the people adjusted to their actual conditions and qualifying them for their life work, a plan which seeks the elimination of waste and aims at a more efficient production, exchange and consumption in the various fields in which men labor. In a brief introduction Secretary Redfield calls attention to the fact that "the life in industry,

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in trades, in the home, on the farm, needs and does not yet receive the corresponding training in principle and practice that is given to the lawyer, the physician and the engineer." Chapters IV, V, VI dealing with "Industry and Its Educational Needs," "Agriculture and Its Educational Needs" and "Business and Its Educational Needs" are particularly suggestive.

Students of social legislation will be further interested in a new volume of *Readings in Social Politics* by Albert B. Wolfe (Boston: Ginn and Company, 1916, pp. xiii, 804) in the series of *Selections and Documents in Economics* edited by W. Z. Ripley. The selections are centered upon (1) problems of population, including Malthusian and post-Malthusian doctrines, the declining birth rate, infant mortality, and eugenics; (2) immigration; (3) the woman problem and the woman movement in their legal, economic and socioethical aspects; (4) the family, marriage, and divorce; and (5) the race problem in America. The material is chosen from a wide range of sources, mostly from representative writers, and the various points of view are given expression. The editor has endeavored to present the selections, where possible, so as to show the historical development of doctrine, and has as a rule chosen longer and more serious contributions rather than briefer selections of less intrinsic value.

The Prize Code of the German Empire as in force July 1, 1915. Translated and edited by Charles Henry Huberich and Richard King (New York: Baker, Voorhis and Company, 1915, pp. 177).

Aside from the original and a careful translation of the German Prize Code of September 30, 1909, as amended up to July 1, 1915, this work contains a valuable introduction, digesting the earlier prize ordinances of Prussia, and appendices including the war zone proclamation of February 4, 1915, and Prussian-American treaty provisions dealing with prize law.

The code is quite comprehensive, dealing with contraband, unneutral service, blockade, visit and search, destruction of prizes, treatment of crews, etc. It is intended primarily for the guidance of German naval commanders but also furnishes the main source of law for German prize courts, which according to a recent decision of the *Oberprisengericht* of Berlin (*The Elida, Am. Jour. Int. Law*, 10:916) are not competent to apply international law directly, as has been at least the ostensible practice in British and American prize courts, but are

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bound by imperial ordinances, such as the present, promulgated under the authority of the prize jurisdiction act of May 3, 1884.

The work is carefully edited, and those who are interested in following the course of international law during the war will congratulate themselves on having this indispensable material gathered in so convenient a form.

The new and revised edition of *The Making of Modern England* by Gilbert Slater (Boston: Houghton Mifflin Company, pp. xli, 297, xli) places in the hands of the student of social legislation in the United States a valuable survey of the economic and social development of England during the nineteenth century and of the extent to which that development has been influenced by successive acts of parliament. In a prefatory note by Professor Shotwell attention is called to the fact that the slow progress of social forces makes history no less than the dramatic convulsions brought about by war, and that it is Dr. Slater's merit to have thrown these social forces into clearer perspective and told the story of democracy as a motive power in the making of a nation. A chronological table has been added to the original text, as well as a series of bibliographies arranged for topical study.

In *The Stakes of Diplomacy* (New York: Henry Holt Company, 1916) Walter Lippmann makes a proposal to increase the chances of peace by removing one of the prime causes of war. The unorganized, backward portions of the earth he regards as the stakes of diplomacy—the source, direct or indirect, of rivalry between nations. West Africa, Siam, Madagasgar, Morocco, Tripoli, Venezuela are the places where patriotisms conflict and nationalities assert their rights. "Who should intervene in backward states, what the intervention shall mean, how the protectorate shall be conducted, this is the bone and sinew of modern diplomacy. The weak spots of the world are the arenas of friction." Walter Lippmann urges the creation of permanent commissions to deal with each of the troublesome areas and to prevent a petty dispute from becoming an international crisis. The suggestion is not given as an immediate panacea, but offers a long step in the direction of a world state.

The Issue, by J. W. Headlam (Boston: Houghton, Mifflin Company), contains various articles upon matters connected with the European war which have been printed during the last couple of years in

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various English reviews. All of them deal with a common theme, the terms upon which the Teuton empires would be found ready to make peace as compared with the terms which must be exacted if the security of Europe for the future is to be established. The book is clear in its expression of opinions and written in Mr. Headlam's excellent style.

Another book on nationalism and internationalism in their various aspects is *War, Peace and the Future*, by Ellen Key (New York: G. P. Putnam's Sons, 1916, pp. x, 271). The volume contains a vigorous protest against the "narrow-minded statesmanship" which has prevailed in Europe since 1870, keeping the nations at high tension. The author does not believe that the present war, with all its horrors and destruction, will immediately further the cause of universal and enduring peace. The politics of nations must be so directed as to support a sound nationalism, and this will be the work of years. The best portions of the volume are those which deal with the author's own specialty in her own way, that is to say with the relations of women to war and to the avoidance of war. These chapters contain a sternly worded indictment of man's mismanagement and endeavor to show how women may win where men have failed.

The Deportation of Women and Girls from Lille (Geo. H. Doran Company) is a compilation of first-hand material dealing with the conduct of the German military authorities in the occupied districts of France, containing numerous French and German documents such as proclamations and telegrams. It includes also the French note of July, 1916 addressed to the neutral powers protesting against the treatment of the population especially in Lille, Roubaix and Tourcoing. By far the larger part of the book is given over to letters and depositions of the French inhabitants. These relate to other matters as well as to deportation and have been reprinted, in large part, from the French *Yellow Book*. The chief value of this collection lies in the fact that it presents original data with little or no comment. Unlike the many books which have been published on this phase of the war, it is not sensational but aims to be a plain statement of fact.

A plan under which the various British dominions, while retaining all their present powers, may take part in the foreign affairs of the empire is set forth by Z. A. Lash, K. C., a well-known Canadian jurist, in a booklet of eighty-six pages entitled *Defence and Foreign Affairs*,

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printed by the Macmillan Company of Canada. The writer differs on many points from the views presented by Lionel Curtis in his *Problem of the Commonwealth*, his standpoint being that of one who speaks what is in the mind of Britishers overseas. Towards the end of his book Mr. Lash gives the complete draft of a suggested agreement between Great Britain and the Dominions.

The Independence of the South American Republics (second edition), by Frederic L. Paxson (Philadelphia: Ferris and Leach, 1916), is a new edition of a well known and widely used "study in recognition and foreign policy" which now appears some twelve years after the first had pointed the way toward a new field of study. During this interval many archives have been made more accessible through the instrumentality of the Carnegie Institution, notably those at Mexico, Madrid, and London. Much new material upon old cases has been made available. New episodes—the Panama and Dominican affairs of 1903 and 1907, to cite but two instances—have given added meanings to older interpretations. The author has apparently not attempted to incorporate any new material in the text of his work, but has confined the changes almost entirely to the notes. The revised edition is, therefore, particularly helpful to the student-investigator in the field of South American history and diplomacy. The new references to recent manuscript acquisitions in the Library of Congress are especially worthy of attention.

Sixty-seven of the best articles which have appeared in *The New Republic* for the last two years are brought together in a convenient and attractive volume under the title *The New Republic Book* (Republic Publishing Company). According to the preface, "it is a collaboration and makes no attempt at complete unanimity or logical consistency. It aims to give in compact and available form a sample of the liberal opinion in the United States as expressed from 1914 to 1916 at the suggestion of events." As an aid in developing a responsible, well-informed public opinion *The New Republic Book* should render considerable service. The last article, "What is Opinion?" sums up in its concluding sentence what may be regarded as the function of periodical writing to-day: "Quixotic as the enterprise may seem, it is the formation of opinion and not dusty scholarship and solemn cant that will enlist the goodwill and best endeavors of those who aim to think worthily."

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A Social Study of the Russian German by Hattie Plum Williams embodies the results of a study undertaken under the auspices of the Department of Political Science and Sociology in the University of Nebraska (Lincoln, 1916, pp. 101). The 6500 "Russians" of Lincoln, Nebraska, are really Germans, ignorant of the Russian language, whose ancestors, a century and a half ago, settled in two Volga provinces. Thence, after various guaranteed liberties were withdrawn, they proceeded, in the years following 1870, to migrate to America, settling in Kansas, Nebraska and the Dakotas. The main period of their imigration began in 1898. On the basis of a canvass and of local records, Miss Williams describes the character of their settlement in Lincoln, their families and their vital statistics in two chapters which she expects to extend into a book.

A Treatise on Federal Impeachments by Alex. Simpson, Jr., LL.D., has been published by the Law Association of Philadelphia. The text has already appeared in the *University of Pennsylvania Law Review* for May and June, 1916, but an appendix containing an abstract of the articles of impeachment in all the federal impeachments in the United States and all the chief impeachments in England is now added. This appendix covers nearly 150 pages and is a most useful compilation. The text of the book is based upon a brief prepared by the writer for use in connection with the Archibald impeachment; it is an admirably clear exposition of the rules and precedents relating to impeachments, with an interesting discussion of some unsettled points. A few pages are devoted to suggestions as to the ways in which the procedure might be improved.

Profit and Wages by G. A. Kleene (New York: The Macmillan Company, 1916, pp. 171) is an attempt to restate J. S. Mill's theory of distribution in a way acceptable to economists of today, though such a task might seem hopeless. Professor Kleene begins by critically examining and discarding as unsound the time-preferences, abstinence, and productivity theories of interest, also all specific productivity theories of wages, even Taussig's discounted marginal product. The ground thus cleared, the author constructs his theory which compromises a Ricardian rent doctrine, a wages fund doctrine supplemented by a theory of the supply price of labor, and a residual share—profit—the return upon capital. The book is excellent in style and tone, and a perusal of its contents will be particularly useful to economists who

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have followed the subjective theorists into the wilderness of psychological determinations.

The many investigations now in progress into the high cost of farm products have shown to legislatures and the public at large the necessity of a more exact knowledge of the problem of production and distribution in this field. *Agricultural Economics*, by Edwin G. Nourse (University of Chicago Press, 1916, pp. 896) contains several valuable chapters in point, dealing with the transition to commercialized agriculture, the relation of public consumption to the farmer's production, market methods and problems, coöperative sales agencies, storage facilities, rural credits and agricultural wages. The volume consists of selections from various sources, with an introduction preceding each of the seventeen sub-divisions.

Readers of W. Cunningham's *English Influence in the United States* (New York: G. P. Putnam's Sons, 1916, pp. 168) will regret that a writer whose range of information is so wide and who could have illuminated the smallest details of his subject has merely chosen to sketch some of its barest outlines. Our legal inheritance is entirely overlooked. It is to be hoped that the present inadequate volume may be followed by one worthy of its author.

The first volume of A. W. Ward's *Germany* 1815–1890 (Cambridge University Press, 1916, pp. 591) covers the period from the Congress of Vienna through the Revolution of 1848 to the sale of the German fleet in 1852. The work was undertaken before the outbreak of the present war, and as the second volume will end with the fall of Bismarck, it will not cover the period leading up to the world wide conflict.

A small volume by Dr. Julia H. Gulliver, president of the Rockford College for Women, entitled *Studies in Democracy* has been published by Messrs. G. P. Putnam's Sons (New York, 1917, pp. 97). It contains three chapters which discuss different aspects of democracy and particularly the relation of democracy to efficient government. While it contains nothing that is novel or striking, the book is interesting, cogent in its expression of ideas and possesses more literary merit than most brief discussions of its kind.

The National Social Science Series has added two more volumes to its list of popular handbooks. *Women Workers and Society* by Annie

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M. MacLean (Chicago: A. C. McClurg, 1916, pp. 135) is a statement of the problem of the status of the 8,000,000 women who are engaged in industrial or professional labor in respect to their conditions of life, the protection afforded them by the law and the plans for bettering their position.

Messrs. D. Appleton and Company announce for publication in March *The Financial Administration of Great Britain*, prepared for the Institute of Government Research by W. F. Willoughby and Samuel McCune Lindsay; *Town Planning for Small Communities*, by Charles S. Bird, Jr.; and *Municipal Functions*, by Prof. H. G. James of the University of Texas. The last two volumes will appear in the National Municipal League Series. Messrs. Longmans, Green and Company have in press *An Introduction to Political Philosophy*, by H. P. Farrell; and the University Tutorial Press will shortly publish a new edition of *The Government of the United Kingdom*, by A. E. Hogan, revised by Rev. A. W. Parry.

The Princeton University Press will issue four small books on contemporary civic problems and administrative methods: *The Administration of an American City*, by Mayor Mitchel; *Health Protection*, by Dr. Haven Emerson; *Municipal Utilities*, by Milo R. Maltbie; and *Crime Prevention*, by New York's police commissioner, Arthur Woods.

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NEWS AND NOTES

EDITED BY FREDERIC A. OGG

University of Wisconsin

By vote of the executive council, the next annual meeting of the American Political Science Association will be held at Philadelphia in December. E. M. Sait of Columbia University is chairman of the program committee. The other members are Professors Jesse S. Reeves, C. H. McIlwaine and Ralph H. Hess.

Dean Henry A. Yeomans of Harvard College has been appointed professor of government at Harvard University from September 1, 1917.

Prof. W. W. Willoughby of Johns Hopkins University, now acting as adviser to the Chinese government, will return to his academic duties next autumn.

Prof. Raymond G. Gettell of Amherst College will give courses in American government and municipal government at the University of Michigan in the summer session of 1917.

Prof. Alvin S. Johnson has taken leave of absence from Stanford University until January, 1918, and has resumed his duties on the editorial staff of *The New Republic*. During his absence some of his work at Stanford will be conducted by Prof. Edward Elliott of the University of California.

Dr. E. G. Lorenzen, of the University of Minnesota, and Dr. E. M. Borchard, formerly law librarian of congress, have been added to the faculty of the Yale Law School.

The first series of lectures at Amherst College on the Henry Ward Beecher Foundation was given this year by President A. Lawrence Lowell of Harvard University. The subject was "A League to Enforce

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Peace." The second series was given by Dr. James Brown Scott on "The Establishment of a World Court."

During the early months of the year, Mr. C. G. Hoag made addresses at a number of colleges and universities in the middle west in the interest of the American Proportional Representation League.

Mr. R. C. Journey, instructor in political science at the University of Missouri, has been appointed director of the state legislative reference library. His connection with the university will not be severed.

Mr. Edmond Brown, Jr., formerly fellow in constitutional history in Columbia University, and connected with the New York Bureau of Municipal Research, has been appointed instructor in political science in the University of Missouri.

The school of commerce of the University of Missouri has been transformed and enlarged into a school of business and public administration, and Prof. Isidor Loeb has been appointed dean. Special curricula in business administration, in public administration, in social service, and in the teaching of commercial subjects are now offered.

Dr. F. A. Magruder of Princeton University has been appointed assistant professor in political science at Oregon Agricultural College.

At the summer session of the University of Southern California, Prof. Edward Krehbiel of Stanford University will give courses in international polity and modern international affairs; Prof. Dupriez of the University of Louvain will offer a course on parliamentary government in Europe; and Prof. Roy Malcolm will give a course on American federal government.

Mr. Rinehart J. Swenson of the University of Wisconsin has been appointed teaching fellow in political science at the University of Minnesota for the year 1917–1918.

Dr. Alejandro Alvarez, secretary general of the American institute of international law, in an extended lecture trip during the winter, visited thirteen of the leading American universities. His subjects dealt with the Monroe Doctrine from a Latin American point of view;

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the necessity of reconstructing the social sciences, especially international law; and fundamental rights in international law.

Prof. Frederic A. Ogg of the University of Wisconsin has been designated by the Carnegie Endowment for International Peace to undertake in Europe, following the close of the war, a series of investigations on the status and prospects of social legislation as affected by the conflict. He will give courses on colonial history in the coming summer session at Columbia University.

Governor Pleasant of Louisiana has appointed as the first board of state affairs, established under constitutional amendment adopted in 1916, L. E. Thomas, a banker of Shreveport, and ex-speaker of the house; F. M. Milling of St. Mary's parish, a lawyer who has served as district judge; and R. W. Riordan, a New Orleans business man. The board takes the place of the old state boards of equalization and appraisers.

At the annual commonwealth conference, held under the auspices of the University of Oregon, two important changes in policy were in evidence. Heretofore a variety of subjects of vital interest to the state have been considered by the conference, although particular attention has always been given to one, or a few, of them with a view to influencing immediate legislative action. But this year the conference confined its deliberations to a highway code for the state—a subject of lively agitation for years past. Representatives of the various interests concerned attended and took part in the discussion. At the session of the legislature immediately following, the long-awaited code was enacted. The change of the place of meeting of the conference from the university campus to the city of Portland has made attendance possible for a much larger number of persons than formerly and has doubtless increased the influence of the conference.

At the fifth annual meeting of the United States chamber of commerce held in Washington, January 31 and February 1 and 2, an address was made by Prof. Leo S. Rowe on the work of the international high commission, and one by Mr. Howard E. Coffin, of the naval consulting board, on "National Defense." Reports submitted by chairmen of important committees included: Charles H. Sherrill of New York, formerly United States minister to Argentina, "Foreign Relations;"

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Howell Cheney of Cheney Brothers, South Manchester, Conn., "Vocational Education;" Frank Trumbull, chairman board of directors of the Chesapeake and Ohio Railroad, "Immigration;" Homer L. Ferguson, president of the Newport News Shipbuilding and Dry Dock Company, "Organization of State Chambers of Commerce;" A. W. Shaw, of Chicago, publisher of *System*, "The Department of Commerce."

As was reported in the last number of the REVIEW (p. 110) the oldest of the state constitutions—that of Massachusetts—will during the coming summer undergo revision at the hands of a convention. In pursuance of an act of the legislature providing for a committee to compile information and data for the convention's use, Governor McCall has appointed Prof. William B. Munro of Harvard University, Roger Sherman Hoar, ex-state senator, and Lawrence B. Evans, for several years professor of history and public law at Tufts College. Professor Munro will serve as chairman of the committee.

In March the legislature of Illinois passed a joint resolution, warmly advocated by Governor Lowden, under which will be submitted to the voters of the state in November, 1918, the question whether a convention shall be called to amend the constitution of 1870 or to frame an entirely new instrument. Only male voters will be eligible to take part in the decision. If the vote is affirmative, the legislature of 1919 will be expected to make the necessary arrangements for the convention. Under the terms of the present constitution, two delegates will be elected from each of the 51 senatorial districts. The adoption of the joint resolution marks the culmination of a campaign of somewhat spectacular aspect covering a period of six years. In 1915 the proposal passed the upper house, but failed in the lower for lack of nine votes.

The most noteworthy extension of the merit system in the federal civil service since the Democrats came into control of the national government was made by the executive order of March 31 requiring competitive examinations to fill vacancies in first, second and third class postmasterships. It will be recalled that fourth class postmasterships north of the Ohio River and east of the Mississippi were put on a competitive basis by order of President Roosevelt in November, 1908, and that those in all remaining parts of the country were so dealt with by an order of President Taft in October, 1912.

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A compilation of constitutional provisions and statutes of the various states on absent voting has been prepared by the legislative reference division of the Library of Congress. The pamphlet may be secured by application to a member of congress.

In the last hours of the sixty-fourth congress a senate filibuster defeated the administration's bill for the arming of merchant ships as a precaution against submarine attack. The indignation of the public was shared by a majority of the members, and when the new senate was convened in special session, March 5, it forthwith took up the question of a revision of the chamber's historic rule of unlimited debate. On March 8 it adopted, after but six hours of debate, and by a vote of 76 to 3, a cloture amendment introduced by Senator Martin of Virginia. The new rule is so important as to be worth quoting in full. It runs:

"If at any time a motion signed by sixteen senators, to bring to a close the debate upon any pending measure is presented to the senate, the presiding officer shall at once state the motion to the senate, and one hour after the senate meets on the following calendar day but one, he shall lay the motion before the senate and direct that the secretary call the roll, and, upon the ascertainment that a quorum is present, the presiding officer shall, without debate, submit to the senate by an aye-and-nay vote the question:

" 'Is it the sense of the senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then said measure shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no senator shall be entitled to speak in all more than one hour on the pending measure, the amendments thereto, and motions affecting the same, and it shall be the duty of the presiding officer to keep the time of each senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane, shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the presiding officer, shall be decided without debate."

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An interesting innovation at the University of California is the establishment by vote of the academic senate of a university committee on international relations. This action has been taken in pursuance of a resolution adopted in 1915 to the effect that the university should "give increased emphasis to the work of instruction and research in problems of international and inter-racial relations; and that a committee of the senate be appointed to formulate a plan for the organization and expansion of instruction and research having the definite purpose of assisting in the promotion of amicable world relations." The committee consists of Profs. J. C. Merriam, Edward Elliott and T. H. Reed. Its principal activity thus far has been to form a small group of members of the faculty to study systematically the problems involved in the relations between the United States and Japan. This group operates on the plan of a seminar. It has decided to make its first task the securing of first-hand information concerning the present state of opinion in Japan regarding the relation of Japanese interests to those of the United States. It expects, further, to study the legislation of all countries bordering the Pacific, so far as it relates to matters of international significance; economic pressure in Japan as bearing upon Japanese expansion; and the development of Japanese nationalistic ideas.

The Mexican-American League has been superseded by a Mexican coöperation society, organized early in the year in New York City. The new association, whose temporary chairman is Mr. Paul U. Kellogg, is intended to be of nation-wide proportions, and a national committee composed of some seventy-five persons has been named to assist in starting and carrying on its work. The object of the organization is stated to be to bring about in the United States "a better understanding of Mexican aspirations, a greater sympathy with the Mexican point of view, a clearer perception of the difficulties under which Mexico now labors." It is proposed that the society shall serve as a clearing-house of information on all Mexican matters. A further plan calls for the establishment at a suitable center in Mexico of an undenominational, non-government school where, in addition to the usual elementary subjects, children may receive instruction in manual training, agriculture, and domestic science. The school is to be Mexican in spirit, and the teachers are to be Mexican. But it will be under the general supervision of the society, and the hope is expressed that it will not only be of direct benefit to such persons as may be able to attend it, but will

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serve as leaven in the Mexican lump and as "a symbol of international good will."

The twenty-first annual meeting of the American Academy of Political and Social Science was held at Philadelphia April 20–21. The general subject under consideration was "America's Relation to the World Conflict and the Coming Peace." Special topics dealt with in papers and addresses included: America's obligations as the defender of international rights, the elements of a just and durable peace, the Balkan situation, the status of Turkey, the rights of small nations, and America's participation in a league for the maintenance of a just and durable peace.

The Institute for Government Research, financed by a group of public spirited citizens, is now permanently established in Washington, at 818 Connecticut Avenue. There is a board of nineteen trustees of national reputation, with President Frank J. Goodnow as chairman; and a staff of experts has been organized under the direction of Prof. W. F. Willoughby. The primary function of the institute is to bring together information which will be of service to government officials. To that end, it is at present directing its energies toward the establishment of cordial working relations with the officials of the United States government.

The institute has prepared a report on "Organized Efforts for the Improvement of Methods of Administration in the United States," and has begun the publication of a series of volumes under the title *Studies in Administration*. The first book in the series, i. e., *The System of Financial Administration of Great Britain*, was prepared by the director, in coöperation with Prof. W. W. Willoughby and Samuel M. Lindsay. Other volumes in prospect include: *Provision for the Retirement of Public Employment; The Budget*, by René Stourm (translation); and *The Budget*, by Max von Heckel (translation). At present the institute is making a study of three branches of administrative work in the United States: financial procedure, public works, and statistics. It plans also to publish a series of special reports under the title of "Service Monographs," each number describing the history, organization, and activities of a distinct administrative service of the United States. Issues in this series may be expected in the near future. The monographs which are descriptive in character will be placed on sale at reasonable prices. Those taken up with recommendations of reforms will be confidential and for use by the government officials only.

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Much interest attaches to the action of the legislature of Indiana in withholding, at the close of its recent session, an appropriation for the continuance of the work of the bureau of legislative information. This bureau has been in existence, under the direction of Mr. John A. Lapp, six years; and it has rendered notable service to the legislature and the state. Chiefly because it has broken the grip which combinations of lobbyists and legislators formerly held upon the mass of members, it has been the object of repeated attack. At no time, however, has it seemed likely that a movement to abolish the bureau could be made to succeed. Even the action lately taken was the result of sharp practice of a small circle, rather than the outcome of deliberate intention on the part of the legislative membership generally. A bill early in the session to curtail the bureau by placing it in the state library with a nominal appropriation was easily killed. The general appropriation bill was held up until the last two days of the session, and at that stage a hostile bipartisan combination succeeded in eliminating from it the bureau's allowance. At the last there was no alternative to acceptance of the amended bill, save the impracticable one of a special session.

The underlying causes of the bureau's discomfiture are such as are likely to appear, in varying guises, wherever similar institutions are trying to do similar work. One was the long cherished animosity of the corporation lobbyists, who find it inconvenient for the legislature to be in possession of too much information. A second was a charge of partisanship. The bureau was created by the Republicans and was enlarged by the Democrats. Its attachés have refrained scrupulously from partisan activities, and its services have been at the disposal equally of Republican and Democratic administrations. The fact, none the less, than it prepared the bills comprised in the forward-looking program of the present Republican governor, Mr. Goodrich, led the Democrats in caucus to decide to terminate its existence. Several of these bills were hotly opposed, and, on account of the even division of power in the upper house, were defeated.

A third factor was the charge that the bureau was seeking to inject its own views into the legislation enacted. Persons familiar with the work of legislative reference bureaus know that such agencies cannot furnish a shred of information or draft a bill without bringing upon themselves the accusation that they are seeking to influence the course of action. In this instance, too, there was resentment of the bureau's "interference" in furnishing a plan of organization of the lower house

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whereby fifteen thousand dollars were saved. The plan naturally cut off patronage; and when it was offered to the upper house, that body would have none of it. Finally, it was the desire of the "interests" that the bureau should not be in existence at the time when (January, 1918) the constitutional convention, lately ordered, will assemble.

Notwithstanding the action taken, the bureau expects to continue and to keep up its work. So far as the legislature could bring it about, funds will be cut off October 1. But steps have been taken to ensure adequate support from private sources, pending expected reconsideration by the legislature two years hence. Meanwhile, public funds are at the bureau's disposal for use in compiling data and information for the constitutional convention, and also for the publication of a Year Book, which will be a compendium of state reports and statistics.

Newer Federal Commissions. The Congressional Directory shows a number of new official bodies designated "commissions" or "boards." The older bodies of this type, the civil service commission and the interstate commerce commission, have existed for about a generation; their functions and mode of procedure are well known. The newer bodies, however, are less familiar. The following list includes the administrative commissions created since March 4, 1913. Dates following names indicate expiration of appointments.

Federal Reserve Board, created by the federal reserve act of December 23, 1913, to administer the system of reserve banks provided by that measure. It consists of seven members; the secretary of the treasury (ex officio), the comptroller of the currency (ex officio), and five other persons appointed by the President and senate, for terms of ten years (after the original appointments for two, four, six, eight and ten years), salary, $10,000. The present appointed members are: Governor, William P. G. Harding (1922); Vice-governor, Paul M. Warburg (1918); Frederic A. Delano (1920); Adolph C. Miller (1924); Charles S. Hamlin (1926).

Federal Trade Commission, created by act of September 26, 1914, and given further powers by the act of October 15, 1914 (Clayton Anti-Trust Act). It took over all functions of the former bureau of corporations of the department of commerce, and was given new duties by the Clayton act. It consists of five members, appointed by the President and senate, for terms of seven years, salary $10,000. The present members are: William J. Harris (1919), chairman; Joseph E. Davies (1921), Will H. Parry (1918), John Franklin Fort (1917), and William B. Colver (1920).

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Federal Farm Loan Board, created by an act of July 17, 1916, entitled "an act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositaries and financial agents for the United States, and for other purposes." It consists of five members: the secretary of the treasury ex officio and four members appointed by the President and senate, for terms of eight years (after the first appointees have had terms of two, four, six and eight years). The present members are: chairman (ex officio), William G. McAdoo, Secretary of the Treasury; George W. Norris (1920), Herbert Quick (1924), W. S. A. Smith (1922), and Charles E. Lobdell (1918).

United States Employees' Compensation Commission, created by an act of September 7, 1916, entitled "an act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes." It consists of three members appointed by the President and senate, for terms of six years (after the original appointees have had terms of two, four and six years). Salary, $4,000. The present members are: Liley McMillan Little (six years), Mrs. Frances C. Axtell (four years), and John J. Keegan, (two years).

United States Shipping Board, created by an act of September 7, 1916, entitled "an act to establish a United States shipping board for the purpose of encouraging, developing, and creating a naval auxiliary and naval reserve and a merchant marine to meet the requirements of the commerce of the United States with its territories and possessions and with foreign countries; to regulate carriers by water engaged in the foreign and interstate commerce of the United States; and for other purposes." The board consists of five members, with terms of six years (after the original appointees have had terms of two, three, four, five and six years); salary $7,500. The present members are: William Denman, John A. Donald, John B. White, Theodore Brent, and Raymond B. Stevens.

United States Tariff Commission, created under title VII of the revenue act of September 8, 1916. Consists of six members, with terms of twelve years (after the original appointments for two, four, six, eight, ten and twelve years). Not more than three of the members may belong to the same political party. The duties of the commission are of an advisory and investigative character. The salary is $7,500. The following nominations were reported in the *Congressional Record*

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of March 15, 1917: Frank W. Taussig, of Massachusetts, for a term of 12 years; Daniel C. Roper, of South Carolina, for a term of 10 years; David J. Lewis, of Maryland, for a term of 8 years; William Kent, of California, for a term of 6 years; William S. Culbertson, of Kansas, for a term of 4 years; and Edward P. Costigan, of Colorado, for a term of 2 years.

H. J. HARRIS.

Library of Congress.

Porto Rican Civil Government Act. Among the important measures adopted during the last hours of the sixty-fourth congress was the act conferring citizenship upon the people of Porto Rico. Since the adoption of the Foraker act, the Porto Ricans have occupied an anomalous position. Although they owed allegiance to the United States, they were not American citizens; nor were they aliens, according to the supreme court (Gonzales vs. Williams, 192 U. S. 1).

The Foraker act was intended to be a temporary measure, and its provisions were at first acceptable to the inhabitants of the island. The hope of ultimate independence led the Porto Ricans to feel no uneasiness over the fact that they were a people without a country. But the growing importance of American interests in the Caribbean and the established certainty that the United States will not withdraw from the island have brought about a change in attitude. The Porto Ricans have come to desire United States citizenship, as all of their political parties have declared.

The new measure extends United States citizenship collectively to all persons in Porto Rico. But any person may escape being covered into citizenship by filing within one year a declaration of intention to remain a citizen of some other country. The right to vote is extended to all citizens of the United States duly registered according to the laws of Porto Rico. It was at first proposed to permit the imposition of educational tests or property qualifications upon the right of suffrage; but these were eliminated, and it is declared "that no property qualification shall ever be imposed or required of any voter" by the Porto Rican legislature. The effect of these provisions will be to confer the citizenship of the United States upon more than one million people and to establish universal manhood suffrage.

Important governmental changes are likewise introduced. A new legislature is provided, in which both houses are elective. The senate is to consist of nineteen members, fourteen being chosen from seven

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districts and the remaining five at large. In the lower house there are to be thirty-nine members, thirty-five of whom are to be chosen from seven districts and the remaining four at large. A power of veto over the acts of the legislature is vested in the governor; but this may be overcome by a majority of two-thirds, upon reconsideration in the legislature. However, in some cases where the veto shall have been imposed and overridden, the matter may be referred to the President, who has an absolute veto.

WILLIAM S. CARPENTER.

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The Mexican Constitution of 1917. From conviction that the democratic spirit of the constitution of 1857 was not obeyed and enforced, and that there were other irregularities in Mexican political and social life, sprang, toward the close of 1910, a revolutionary movement. The revolt had as its motto "*sufragio efectivo y no reelección.*" But it aimed also at economic reforms, so as to win over the masses who cared nothing for voting. It ended in the exile of Diaz and the election of Madero.

Then began the sanguinary drama we have been witnessing. Madero resigned and was succeeded by Lascuráin, who in turn handed over the reins of government to Huerta. Carranza promptly took up arms against him, and issued the plan of Gaudalupe, of March 26, 1913, in which he embodied his political promises. His party was called "constitucionalista," because, as he asserted to the United States government, "its sole mission was that of restoring the rule of the Constitution of 1857."

The plan of Gaudalupe was a political platform without legal sanction. It was amended December 12, 1914. To mark the evolution of the leading democratic principles it originally embraced, it will be sufficient to quote from the amendatory decree:

"I, Venustiano Carranza, *have seen fit to decree* the following: [Article 1]. . . . Venustiano Carranza shall continue at his post as First Chief of the Constitutionalist Revolution . . . [Article 2]. The first Chief of the Revolution . . . shall enact and enforce during the struggle all the laws, provisions and measures tending to meet the economic, social and political needs of the country, carrying into effect the reforms which public opinion demands. . . . "

Article 4 reads: "Upon the success of the Revolution . . . the First Chief . . . shall issue the call for election of congressmen . In September 19, 1916, a call for an election of members to a consti-

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tutional convention was issued in direct contravention of this article This body met in Querétaro December 1, 1916. The first chief presented a draft, and in a lengthy speech explained the character and spirit of the reforms. The constitution was signed on January 31, 1917. It was promulgated without the sanction of the state legislatures as provided for by the constitution of 1857 (Arts. 127, 128); and it is intended that it shall become effective May 1, 1917. The legality of the action taken is highly dubious. Indeed, taking the charter of 1857 as a basis of judgment, the new instrument is itself unconstitutional.

Viewed as a whole the document of Querétaro is a piece of "advanced legislation"—so advanced, indeed, that it may be considered as distinctively class legislation. It provides that no law shall be given retroactive effect (Art. 14); yet, its agrarian clauses have to be retroactive in order to produce the desired results. In proof, attention is called to the provisions of Art. 27 that, "all legal actions which may have deprived properties held in common by co-owners, hamlets situated on private property, settlements, congregations, tribes and other settlement organizations still existing since the law of June 25, 1856, of the whole or a part of their lands, woods and waters, are declared null and void. . . . ." The same article further provides: "All contracts and concessions made by former governments from and after the year 1876 which shall have resulted in the monopoly of lands, waters and natural resources of the nation . . . . are declared subject to revision, and the executive is authorized to declare those null and void which seriously prejudice the public interest."

Again, the constitution of 1857 provided (Art. 29) that "in cases of invasion, grave disturbance of the public peace, or any other emergency . . . . the president of the republic of Mexico, and no one else . . . . shall have power to suspend the guaranties provided by this constitution, except those which protect the life of man . . . ." It is most significant, however, that the document of Querétaro, while reproducing almost verbatim the language of 1857, omits the clause "except those which protect the life of man."

Economically, the document of Querétaro is dangerous because the precarious tenure system it provides will surely throttle foreign initiative and alienate foreign capital; socially, it is impracticable, for the economic conditions of the country do not justify the enactment nor permit the enforcement of legislation of the type proposed; politically, it lacks the sanction of the majority of the people because it disregards the very promises of the party, and because it denies to the inhabitants

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of the republic those rights generally recognized and respected in all civilized communities, including the right of conscience and even the right to life.

SALVADOR MARTINEZ DE ALVA.

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Parties and the Cabinet System in Japan. The Japanese political crisis of recent months is no new development. It rather forms a link in the long chain of political struggle that has time and again been waged since the opening of the imperial diet in 1890. It is, in fact, the conflict between two schools of political thought, each contending for mastery in practical politics.

One of these schools is well represented by Marquis Okuma. When the marquis resigned the premiership last autumn on account of old age, he recommended to the emperor as his successor Viscount Kato, foreign minister in his cabinet and leader of the Kenseikai, which commanded at that time a workable majority in the lower house. In doing so, Marquis Okuma was acting upon the principle of which he has so long been an ardent advocate, that the government should be operated under a party system, as is the English. The contention of this school is, in brief, that as the emperor has granted to the people the constitution with the avowed object of ruling the country in conformity with their wishes, the ministry appointed to carry out the imperial will should logically be chosen from among those statesmen who enjoy the confidence not only of the emperor but also of the people. In other words, this school advocates that the cabinet should be formed in major part, if not entirely, by the leaders of the party which has the majority in the imperial diet. This majority party in the diet, however, amounts in practice to the majority party in the lower house, for the upper house has not yet incorporated into its organization any well-defined political parties. Moreover, the house of representatives is elected directly by the people, whereas the major part of the house of peers is composed of the appointees of the throne.

The recommendation of Marquis Okuma as to his successor was not accepted by the emperor, who followed the advice of another group of "Elder Statesmen" by appointing Count Terauchi to the premiership. Thereupon the Terauchi cabinet was organized, with the program of a non-party cabinet and administration conducted by the best intellects of the united nation. The statesmen now in power are

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strongly opposed to the party system of government. And the fact that they hold today the reins of government is sufficient to prove that, while the school of liberal thought may be yearly gaining strength its rival still constitutes a very powerful factor in the political arena of Japan. To this school belong some of the ablest and most widely experienced statesmen who have in the past played conspicuous parts in the upbuilding of modern Japan, and, consequently, enjoy the confidence of the emperor and command the respect of the nation. Their views with regard to this constitutional point are explained by the present premier in these words:

"Party government has no place in the constitution of Japan. . . . . I presume our opponents in the lower house of parliament introduced their want of confidence resolution in January with an idealistic ambition to form a party government for Japan. But in Japan we must guide our political acts according to the clauses of the imperial constitution. . . . . According to it, the appointment of ministers rests entirely with the sovereign power of his majesty, the emperor, and no other power has any right to interfere with this function. Any resolution passed by the lower house simply expresses the opinion of the house. The two houses (house of representatives and house of peers) are equal in authority and independent one of the other. Nothing is so absurd as to argue that a ministry that has not the support of the largest political party in the lower house has no footing at all in the parliament itself. In England a party cabinet is headed by the leader of the party commanding the majority in the house of commons; but not so under the imperial constitution of Japan. To insist on such a principle is to encroach on the sovereign power of the emperor. It means, also, destruction of the present organization of our two-chambered parliament."

The whole issue hinges upon the construction put on the spirit and letter of the constitution. The framers of the Japanese constitution, whose guiding spirit was Prince Ito, showed most clearly their wisdon, sagacity, and foresight in the provision they made for the formation of the cabinet. The text of the constitution relating to the subject, if read literally, would mean, as Count Terauchi says, that the ministers take their mandate from the throne, not from parliament, and that their tenure of office depends solely on the will of the emperor. But there is ambiguity in the clause, for it neither admits nor denies the principle of parliamentary mandates. The course Prince Ito and Prince Katsura pursued after the parliamentary system was put into

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working order would go to prove that the framers of the constitution labored under no illusion as to the inevitable outcome of their work. Both of these great statesmen, on retiring from their premierships, proceeded to organize political parties under their leadership. It can, therefore, be reasonably presumed that, while those statesmen were fully aware that party cabinets would be an essential outcome of representative institutions—that to some kind of party cabinets Japan must some day come—they were at the same time determined that such a momentous step should be taken very cautiously and gradually. At the time the constitution was framed there existed no political parties competent to form cabinets, and the leaders of such parties as existed were mostly untrained and inexperienced men simply clamouring for power. So the Meiji statesmen found in the throne the sheet-anchor to hold secure the ship of state in troubled waters, and considered the imperial mandate clause a conservative safeguard, pending the organization and education of parties worthy to be entrusted with governmental responsibilites. A few years of parliamentary experience, however, revealed that a cabinet unsupported by strong political parties is virtually impotent for law-making, and even for administrative purposes. For the opposition in the lower house, if commanding a majority, could by sheer obstruction prevent the voting of the budget and other legislative measures.

The history of various ministries formed since 1890, ranging from a cabinet that stood completely aloof from political parties to a cabinet entirely controlled by the leaders of the majority party in the lower house, is the history of a series of experiments to find the way to adjust the principle of the imperial mandate and that of parliamentary mandate, so as to ensure the smooth working of the constitution and safeguard the welfare of the nation. The days of experiment are not yet over.

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Antecedents of the Russian Revolution. The resignation, in the summer of 1916, of the Russian minister of foreign affairs, Sergei Sazonov, was keenly regretted as well within Russia as among her allies. It had been generally interpreted, as a mere result of differences between the talented and influential minister on one side, and the governing group on the other, with respect to the immediate attitude to be taken towards the future independence of Poland. However, the subse-

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quent development of an acute crisis in the internal political situation of Russia clearly shows that Sazonov's dismissal was only the first step of a well calculated campaign, led by a surprisingly small group surrounding the throne; a campaign which bears all the earmarks of plain treason.

The firm will of the whole nation, clearly expressed by the Duma, the press, the organizations of the local governments (the "zemstvos") and the municipalities ("goroda"), and even by the oldest representatives of the burcaucracy among the appointed members of the upper chamber of the Russian diet and the ultra-reactionary council of the united nobility, was to fight to the bitter end. This determination was, however, openly defied by the governing camarilla surrounding the throne, whose evident purpose was to prevent, by all means available, a crushing defeat of Germany. Boris Stürmer, German in both name and sympathy, succeeded Sazonov as minister of foreign affairs and at once began secret negotiations with Russia's enemies. At the same time Protopopov, who is his capacity of assistant chairman of the Duma was sent to England and France as a member of the Russian parliamentary delegation, betrayed the confidence of his constitutents and deserted the national cause. On his way back to Russia he held a secret interview with the German ambassador in Stockholm; and as a reward he was appointed minister of the interior pro tem.

Soon afterwards the pro-German intrigues of the court circle were openly denounced in the Duma by Dr. Muliukov, leader of the Constitutional Democrats (popularly known as the "Cadets"), by the eminent Octobrist Shidlovski, and by Purishkevich, a former leader of the ultra-reactionary wing of the Duma; and although the censorship was brought sharply to bear, the news of what was going on spread with great rapidity and aroused a storm of indignation. Stürmer was dismissed (November 24) and Trepov was appointed prime minister, with at first Neratov and later Pokrovski (former assistant minister of finances), as minister of foreign affairs. But the change did not alter the policy of the governing camarilla; and evidence of the real intention of the court was seen in the fact that Protopopov, who was universally accused of treason, was allowed to retain his position as a member of the cabinet. The demand of both houses of the diet for a cabinet responsible to the representatives of the people was scoffed at. The solemn promises of the prime minister, and his attempts to form a patriotic cabinet which should be united in its policies, resulted in a struggle between him and Protopopov; and the contest

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ended in the resignation of Trepov and the complete victory of Protopopov and the clique supporting him. Stürmer returned to the cabinet in the capacity of a minister without portfolio. A nominal head for the cabinet was found in the person of the entirely colorless Prince Golitzin.

Meanwhile, the popular apprehension began to find expression in numerous nation-wide congresses of different organizations, strongly recalling the pre-revolutionary period of 1905. The government employed all means, illegal as well as legal, to prevent these meetings; and at last, when the crisis became acute, the meetings of the zemstvos and municipal unions were suppressed by force. These two great national organizations had saved the Russian armies in 1915 from the utter destruction which would have come as an unavoidable result of the complete inadequacy of the governmental methods of supplying the troops with ammunition and food.

However, the associations had time unanimously to adopt resolutions calling on the Duma to refuse to dissolve and to declare its sitting permanent, thus assuming unlimited power and repeating the example of the French National Assembly in 1789. The government answered these resolutions by confirming Protopopov as full-fledged minister of the interior; by dismissing the exceedingly popular minister of public instruction, Count Ignatiev; and by a series of similarly provoking measures. And thereafter the governing camarilla labored to bring about, as a last resort, an open revolutionary outbreak, in order to justify before the allied nations and the world a separate peace with Germany. The murder of the evil spirit of the Russian court, the vicious drunkard, Grigori Rasputin, failed to change the situation. As was asserted by Rasputin's former friend, the monk Tliodor, "Rasputin is dead, but '*Rasputinstvo*' (the spirit and the methods of Rasputin) are still alive."

In their effort to avert the revolutionary outbreak which the court camarilla was trying to provoke as a last chance to turn the cards in favor of Germany and to save the face of the autocratic régime, the leaders of the progressive parties seemed for weeks to be struggling against overwhelming odds. And that part of the world which knew most about the situation was hardly prepared to hear of the turn of events whereby in early March the nationalistic, anti-dynastic, and anti-German elements got the upper hand, drove the camarilla from power, and forced the Tsar to speedy abdication.

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NOTES ON INTERNATIONAL AFFAIRS

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The Freedom of the Seas. Considerable discussion as to the meaning of "the freedom of the seas" has followed the reference by President Wilson to that subject in two official communications. On January 22, in his address before the senate in which he laid down the conditions under which he considered it possible that the United States might coöperate with other nations in establishing an international authority to guarantee peace, the President stated that "the freedom of the seas is the sine quâ non of peace, equality and coöperation"; and again in his inaugural address of March 5 he enumerates among the principles in which we have been bred and which are "the principles of a liberated mankind" and which we shall stand for whether in war or in peace, "that the seas should be equally free and safe for the use of all peoples, under rules set up by common agreement and consent, and that so far as practicable they should be accessible to all upon equal terms." The fundamental distinction to be made in this connection is between the freedom of the seas in time of peace and again in time of war. International law recognizes two distinct sets of rules. In time of peace the seas are already free. With the internationalization of the great rivers flowing through two or more states those highways of traffic are now open to the world. The Danish Sound dues were abolished in 1857; the Suez Canal was internationalized in 1888; and in similar fashion the Panama Canal was by the Hay-Pauncefote treaty of 1901 declared to be "free and open to the vessels of commerce and of war of all nations." The Dardanelles, though closed to warships, are open to the peaceful commerce of all nations.

But in time of war the situation is different. Here international law recognizes several ways in which the freedom of the seas may be denied to both belligerents and neutrals. In the first place there is the rule that the merchant vessels of a belligerent are subject to capture on the high seas by the other belligerent, private property of the

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enemy on the sea not sharing the exemption from capture accorded it (by law!) on land. Many efforts have been made to amend this rule, notably by the United States in 1856, at the deliberations preceding the Declaration of Paris, and again at the Hague Conferences of 1899 and 1907, but without success. In the second place the freedom of the seas is denied to neutral nations in time of war by virtue of the penalties inflicted upon the carriage of contraband and in consequence of the establishment of a blockade by one belligerent of the ports of another. No serious attempt has ever been made to change the law in this respect.

To what then does the President refer? It would seem that he must have in mind the first of the two restrictions operating in time of war, namely, the liability of the merchant ships of one belligerent to capture by the other. The objection to this interpretation is that the President is evidently contemplating a future era of peace, one of the conditions of which is the freedom of the seas. How then is it in point to propose a change in the law of war? The answer is that the liability of merchant ships to capture in time of war actually operates as a weapon in the hands of the nation whose fleet is the larger and which has therefore in the event of war the power to inflict the greater harm upon its enemy entirely apart from the fortunes of battle. Can it also be that the President is calling upon the nations to renounce the right to capture contraband and to maintain a blockade in time of war? Without these two measures of making naval power effective a nation might be almost as ready not to go to war at all. However desirable it be to limit war to the actual combatants, it is as little feasible to expect a nation to renounce the right to blockade by sea as to deny itself the power to besiege a fort or town by land. And yet certain words of the President's address of January 22 seem to warrant this interpretation. "No doubt," he says, "a somewhat radical reconsideration of some of the rules of international practice hitherto sought to be established may be necessary in order to make the seas indeed free and common in practically all circumstances for the use of mankind, but the motive for such changes is convincing and compelling. There can be no trust or intimacy between the peoples of the world without them. The free, constant, unthreatened intercourse of nations is an essential part of the process of peace and of development." Moreover the statement that the freedom of the seas is "a problem closely connected with the limitation of naval armaments and the coöperation of the navies of the world in keeping the seas at once free

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and safe" would seem to indicate that the President's meaning is to remove from the present law of war all of those elements which may operate as a menace in time of peace. This is, indeed, equivalent to disarmament itself.

The Status of Armed Neutrality. On February 26, President Wilson went before congress to ask for specific authority from that body "to supply our merchant ships with defensive arms should that become necessary, and with the means of using them, and to employ any other instrumentalities or methods that may be necessary and adequate to protect our ships and our people in their legitimate and peaceful pursuits on the high seas." This policy is described by the President as one of "armed neutrality," for which he says there is "abundant American precedent." Armed neutrality is, it is true, a status which is well understood in international practice of the past, but it may well be questioned whether it can be anything more than a delayed declaration of war at the present day. The term is used to express both the attitude of armed preparation on the part of a neutral nation in anticipation of a possible attack upon its territory, as in the case of Holland and Switzerland at the present time, and more particularly the attitude of a neutral nation in attempting to defend by force the right of its merchant ships to continue their peaceful commerce which belligerents are seeking to interrupt by unlawful measures of restraint. The Armed Neutrality of 1780, which was inaugurated by Russia in order to protect neutral shipping against the rules of capture practised by Great Britain, stopped short of war, but failed to secure the rights for which it was undertaken. In 1800 a second Armed Neutrality was established by Russia with the coöperation of Sweden, Denmark, and Prussia; and again it failed to bring about more than a compromise and war ultimately resulted. In 1798 on June 25, congress authorized President Adams to employ the forces of the United States to seize or destroy on the high seas French vessels which were making depredations upon American shipping under rules of capture which we held to be illegal, and the result was a qualified state of war.

Similar in character to armed neutrality as a means of enforcing rights without resorting to a declaration of war is the practice of laying an embargo upon ships of the nation whose policies are being resisted and of prohibiting all commercial intercourse with it,—practices which have been frequently resorted to by the United States. Such meas-

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ures were possible a hundred years ago when communication between governments was slow and reports from ships of events occurring on the high seas might not reach the government until several months after they had taken place; but at the present time, when a conflict between an armed ship and a submarine is communicated almost immediately to both nations, it is scarcely possible that the single act, much less a series of such acts, could fail to create an irresistible demand for war. Public opinion has a power of spontaneous action today which was unknown a hundred years ago. Armed neutrality, always a paradox and practicable only in an age when diplomatic negotiations involved months of waiting, has become a complete anomaly in international law. The President's decision to arm our merchant ships was really equivalent to an ultimatum with a conditional declaration of war.

Armed Merchantmen. It is not easy for the press and the public generally to distinguish between the various phases of the law regulating the status of armed merchantmen. Perhaps the most important distinction to observe is that between armed merchant vessels of the belligerents when in neutral ports and the same vessels when on the high seas. The distinction is based upon the difference between the principles of law involved in the two cases. The entrance of an armed merchant vessel into a neutral port raises at once the question under the law of neutrality as to what asylum should be granted to her by the neutral country. Is the armed vessel to be treated as a warship and to be in consequence limited in the duration of its stay in port and in the amount of provisions and other supplies which it may take on board? Or is the vessel to be accorded the usual privileges of vessels engaged in peaceful commerce? In a confidential letter to the ambassadors of the Entente Powers under date of January 18, 1916, Secretary Lansing stated that the United States government was "impressed with the reasonableness of the argument that a merchant vessel carrying an armament of any sort, in view of the character of the submarine warfare and the defensive weakness of undersea craft, should be held to be an auxiliary cruiser and so treated by a neutral as well as by a belligerent government"; but this tentative position was subsequently reversed, and in a memorandum under date of March 25, 1916, vessels are classified as merchant vessels which, though armed, are not under orders to commit aggressive acts and have not actually done so.

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When the same vessel leaves the neutral port and enters upon the high seas the question is raised under the laws of war whether an enemy warship may attack it at sight as part of the armed forces of its opponent, or whether the warship must, in case no resistance is made, proceed to visit and search the ship and otherwise dispose of it and its passengers and crew as if it were unarmed. If there be neutral passengers and goods on board the armed merchantman and the vessel be unlawfully treated as a warship, a question of neutral rights arises in respect to the passengers, if they have been put in danger or possibly killed, and in respect to the goods if they have been destroyed without regard to their possible non-contraband character.

The note of January 18, 1916, referred to above, questions whether the advent of the submarine has not so changed the conditions of naval warfare as to abolish the earlier rule permitting a merchant ship to carry defensive armament, the argument being that in view of the vulnerability of the submarine even guns of smaller calibre might be used effectively for offensive purposes. But this position was likewise repudiated by the United States in the memorandum of March 25 in which it was held that "a presumption [of warlike character] based solely on the presence of an armament on a merchant vessel of an enemy is not a sufficient reason for a belligerant to declare it to be a warship and proceed to attack it without regard to the rights of the persons on board,"—the conclusion being that in the absence of conclusive evidence that the armament is to be used for aggression the vessel must not be attacked without warning.

How far this position is in accord with international custom of the past is open to dispute. There are cases such as the *Nereide*, decided in 1815, which seem to hold that an armed merchant ship is "an open and declared belligerent, claiming all the rights and subject to all the dangers of the belligerent character," so that by inference there need be no more obligation of giving warning before attacking than in the case of warships themselves. But no cases meet squarely the issue raised in the present war, namely, the element of implied aggressive purpose deducible from the fact that a submarine, by the very act of showing itself in order to bring the armed merchantman to a stop, puts itself at a disadvantage and thus enables the merchantman to make its defensive armament effective.

The Yarrowdale Case. Another phase of the legal status of armed merchantmen is to be found in the treatment accorded to the

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crew of the vessel when captured. This question was raised in an acute form by the capture of the British merchant ship *Yarrowdale*. Among the crew were three American citizens who, with fifty-four captured on two other vessels, were held as prisoners of war upon the arrival of the vessel in the harbor of Swinemünde on December 31, 1916. The United States immediately inquired of the German government as to its intentions in respect to the men, and in reply the German government reiterated its statement that a ship which mounts guns whether for defense or offense loses its status as a private commercial craft and becomes a warship, and that sailors taking service on such a ship lose their neutral status and are liable to be treated as prisoners of war if the ship be captured. Since this attitude toward defensively armed merchant ships had already been declared by the United States in its memorandum of March 25, 1916, to be unjustifiable, a demand was made upon the German government for the release of the prisoners, and in spite of a reaffirmation of its attitude towards such vessels it was announced by the foreign office that the prisoners would be released.

Volunteer Navies. Still another phase of the question of armed merchantmen, which however does not bear directly upon the subject but is commonly regarded as so doing, is presented in the conversion of merchant ships into armed cruisers for the purpose of aggressive operations against the merchant shipping of the enemy. The number of commercial vessels thus converted and the havoc they have been able to wreak in their raids upon the high seas would appear at first sight to amount to a revival of the privateering abolished by the Declaration of Paris of 1856. There is, however, an important distinction between the two forms of warfare. The prohibition of privateering was primarily directed against the lawless methods of warfare which resulted from giving commissions to private vessels to prey upon enemy commerce without imposing any restrictions upon their actions, whereas the seventh convention of the Second Hague Conference, in laying down definite rules for the conversion of merchant ships to warships, providing in particular that the commander must be a duly commissioned officer of the state, obviates the chief evils incident to this volunteer navy. Raiders such as the *Moewe* have, therefore, precisely the same legal standing as the *Eitel Friederich* and other cruisers of the navy.

One question left unsettled by the Hague Conference was whether the conversion of these merchant ships into warships might take place

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on the high seas, Great Britain, Japan, and the United States being opposed to conversions on the high seas and France, Russia and Germany favoring it. In consequence of the inability of the powers to agree upon this point it was decided that the question of the place where the conversion takes place should remain outside the scope of the convention, that is, it should be decided by each power as it might see fit under the circumstances, leaving the law in the confused state in which it was before 1907.

The Conviction of Frantz Bopp. The conviction on January 22, in the federal district court of California of the former consul general of Germany, Frantz Bopp, raises the question of the extent to which consuls are accorded special privileges and immunities in the country in which they are exercising their functions. By contrast with the treatment shown captains von Papen and Boy-ed the distinction between diplomatic and consular privileges and immunities is clearly brought out. On December 2, 1915, the United States requested Germany to recall the military and naval attachés of the German embassy because of activities not proper to the duties of their office. No formal charges were laid against them, but prior to the request for recall, the department of justice had made investigations which showed on the part of both officers a misuse of American passports, the subvention of American newspapers, the promotion of crimes of violence against American industries, and other serious offenses.

The procedure in the case of a consul is entirely different. A consul does, indeed, exercise his functions by virtue of a formal *exequatur* granted by the government, but this document is obtained for him through the diplomatic representative of his own state and he himself is not brought into direct relations with the foreign government. As early as 1737 in Barbuit's case the British court of equity held on the authority of Barbeyrac and Wicquefort that consuls were not entitled to immunity from the jurisdiction of the British courts. What privileges are possessed by consuls are enjoyed by them in consequence of treaty provisions, but such treaty provisions do not extend to exempting them from the civil or criminal jurisdiction of the country. In Article III of the treaty of 1871 with Germany it is specifically stated that consular officers shall enjoy personal immunity from arrest or imprisonment "except in the case of crimes." Accordingly when Consul General Bopp and Vice Consul von Schack were under indictment for violating the neutrality of the United States by conspiring to

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destroy munitions consigned to the Entente Allies, no question was raised as to their immunity from prosecution, and even if the German ambassador had not informed the state department on January 12 that he had relieved the two men from their offices the proceedings against them would have been carried out. Bopp was sentenced to a fine of $10,000 and two years in prison, while von Schack and Lieutenant von Kricken, a consulate attaché, were given life sentences.

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